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PENNSYLVANIA BULLETIN

Volume 34

Number 14

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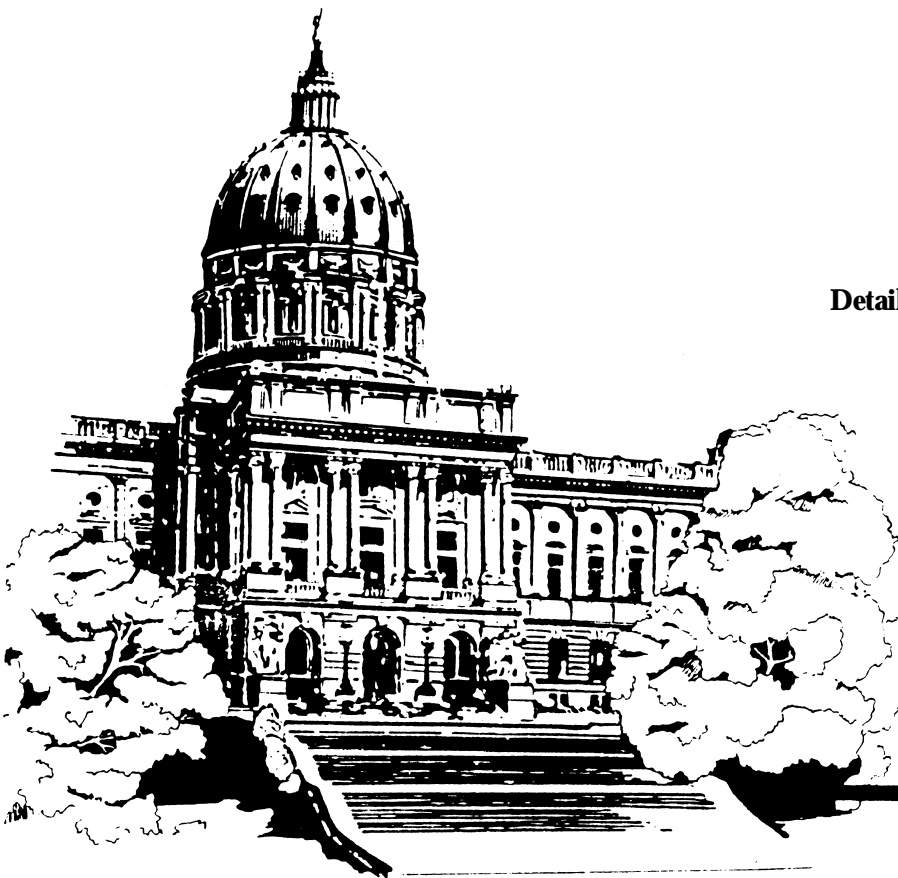
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Insurance Department
Liquor Control Board
Pennsylvania Public Utility Commission
Philadelphia Regional Port Authority
State Board of Accountancy

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No. 353, April 2004

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READER'S GUIDE TO THE PENNSYLVANIA BULLETIN AND PENNSYLVANIA CODE

Pennsylvania Bulletin

The *Pennsylvania Bulletin* is the official gazette of the Commonwealth of Pennsylvania. It is published every week and includes a table of contents. A cumulative subject matter index is published quarterly.

The *Pennsylvania Bulletin* serves several purposes. First, it is the temporary supplement to the *Pennsylvania Code*, which is the official codification of agency rules and regulations and other statutorily authorized documents. Changes in the codified text, whether by adoption, amendment, repeal or emergency action must be published in the *Pennsylvania Bulletin*. Further, agencies proposing changes to the codified text do so in the *Pennsylvania Bulletin*.

Second, the *Pennsylvania Bulletin* also publishes: Governor's Executive Orders; State Contract Notices; Summaries of Enacted Statutes; Statewide and Local Court Rules; Attorney General Opinions; Motor Carrier Applications before the Public Utility Commission; Applications and Actions before the Department of Environmental Protection; Orders of the Independent Regulatory Review Commission; and other documents authorized by law.

The text of certain documents published in the *Pennsylvania Bulletin* is the only valid and enforceable text. Courts are required to take judicial notice of the *Pennsylvania Bulletin*.

Adoption, Amendment or Repeal of Regulations

Generally an agency wishing to adopt, amend or repeal regulations must first publish in the *Pennsylvania Bulletin* a Notice of Proposed Rulemaking. There are limited instances where the agency may omit the proposal step; they still must publish the adopted version.

The Notice of Proposed Rulemaking contains the full text of the change, the agency contact person, a fiscal note required by law and background for the action.

The agency then allows sufficient time for public comment before taking final action. An adopted proposal must be published in the *Pennsylvania*

Bulletin before it can take effect. If the agency wishes to adopt changes to the Notice of Proposed Rulemaking to enlarge the scope, they must re-propose.

Citation to the *Pennsylvania Bulletin*

Cite material in the *Pennsylvania Bulletin* by volume number and page number. Example: Volume 1, *Pennsylvania Bulletin*, page 801 (short form: 1 Pa.B. 801).

Pennsylvania Code

The *Pennsylvania Code* is the official codification of rules and regulations issued by Commonwealth agencies and other statutorily authorized documents. The *Pennsylvania Bulletin* is the temporary supplement to the *Pennsylvania Code*, printing changes as soon as they occur. These changes are then permanently codified by the *Pennsylvania Code Reporter*, a monthly, loose-leaf supplement.

The *Pennsylvania Code* is cited by title number and section number. Example: Title 10 *Pennsylvania Code*, § 1.1 (short form: 10 Pa.Code § 1.1).

Under the *Pennsylvania Code* codification system, each regulation is assigned a unique number by title and section. Titles roughly parallel the organization of Commonwealth government. Title 1 *Pennsylvania Code* lists every agency and its corresponding *Code* title location.

How to Find Documents

Search for your area of interest in the *Pennsylvania Code*.

The *Pennsylvania Code* contains, as Finding Aids, subject indexes for the complete *Code* and for each individual title, a list of Statutes Used As Authority for Adopting Rules and a list of annotated cases. Source Notes give you the history of the documents. To see if there have been recent changes, not yet codified, check the List of *Pennsylvania Code* Chapters Affected in the most recent issue of the *Pennsylvania Bulletin*.

The *Pennsylvania Bulletin* also publishes a quarterly List of Pennsylvania Code Sections Affected which lists the regulations in numerical order, followed by the citation to the *Pennsylvania Bulletin* in which the change occurred.

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Printing Format

Material proposed to be added to an existing rule or regulation is printed in **bold face** and material proposed to be deleted from such a rule or regulation is enclosed in brackets [] and printed in **bold face**. Asterisks indicate ellipsis of *Pennsylvania Code* text retained without change. Proposed new or additional regulations are printed in ordinary style face.

Fiscal Notes

Section 612 of The Administrative Code of 1929 (71 P. S. § 232) requires that the Office of Budget prepare a fiscal note for regulatory actions and administrative procedures of the administrative departments, boards, commissions or authorities receiving money from the State Treasury stating whether the proposed action or procedure causes a loss of revenue or an increase in the cost of programs for the Commonwealth or its political subdivisions; that the fiscal note be published in the *Pennsylvania Bulletin* at the same time as the proposed change is advertised; and that the fiscal note shall provide the following information: (1) the designation of the fund out of which the appropriation providing for expenditures under the action or procedure shall be made; (2) the probable cost for the fiscal year the program is implemented; (3) projected cost estimate of the program for each of the five succeeding fiscal years; (4) fiscal history of the program for which expenditures are to be made; (5) probable loss of revenue for the fiscal year of its implementation; (6) projected loss of revenue from the program for each of the five succeeding fiscal years; (7) line item, if any, of the General Appropriation Act or other appropriation act out of which expenditures or losses of Commonwealth funds shall occur as a result of the action or procedures; (8) recommendation, if any, of the Secretary of the Budget and the reasons therefor.

The required information is published in the foregoing order immediately following the proposed change to which it relates; the omission of an item indicates that the agency text of the fiscal note states that there is no information available with respect thereto. In items (3) and (6) information is set forth for the first through fifth fiscal years; in that order, following the year the program is implemented, which is stated. In item (4) information is set forth for the current and two immediately preceding years, in that order. In item (8) the recommendation, if any, made by the Secretary of Budget is published with the fiscal note. See 4 Pa. Code § 7.231 *et seq.* Where “no fiscal impact” is published, the statement means no additional cost or revenue loss to the Commonwealth or its local political subdivision is intended.

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List of Pa. Code Chapters Affected

The following numerical guide is a list of the chapters of each title of the *Pennsylvania Code* affected by documents published in the *Pennsylvania Bulletin* during 2004.

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THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART IV. ADMISSION TO PRACTICE LAW

PART V. PROFESSIONAL ETHICS AND CONDUCT

[204 PA. CODE CHS. 71 AND 83]

Amendments to the Pennsylvania Bar Admission Rules and Rules of Disciplinary Enforcement Relating to Foreign Legal Consultants

Notice is hereby given that The Pennsylvania Board of Law Examiners and The Disciplinary Board of the Supreme Court of Pennsylvania are considering recommending to the Pennsylvania Supreme Court that it amend the Pennsylvania Bar Admission Rules as set forth in Annex A and the Pennsylvania Rules of Disciplinary Enforcement as set forth in Annex B to add provisions relating to foreign legal consultants.

In 1993, the ABA House of Delegates approved the Model Rule for the Licensing of Legal Consultants, which addresses the work of foreign lawyers in United States jurisdictions. The Model Rule responded, in part, to the concern of foreign lawyers that, while American lawyers enjoyed a broad right of practice in other countries (or sought such a right in countries that did not afford it), foreign lawyers generally could not engage in the practice of law in the United States, even if limited to advising on the law of their own countries, without attending an accredited American law school, sitting for the bar examination and becoming a full member of the bar. The ABA identified both a need for a streamlined admissions process for foreign lawyers seeking to establish a law practice providing limited legal services and a need for greater uniformity. The experience of those states that have adopted such a rule does not disclose regulatory problems resulting from licensing foreign legal consultants. The rule changes that the Board of Law Examiners and the Disciplinary Board are considering recommending are very similar to the ABA model rule.

Interested persons are invited to submit written comments regarding the proposed amendments. Comments should be sent to both the Executive Director, Pennsylvania Board of Law Examiners, 5070A Ritter Road, Suite 300, Mechanicsburg, PA 17055-4879 and the Office of the Secretary, The Disciplinary Board of the Supreme Court of Pennsylvania, First Floor, Two Lemoyne Drive, Lemoyne, PA 17043, on or before May 7, 2004.

*By The Pennsylvania Board of Law Examiners
Supreme Court of Pennsylvania*

MARK DOWS,
Executive Director

*By The Disciplinary Board of the
Supreme Court of Pennsylvania*

ELAINE M. BIXLER,
Executive Director and Secretary

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART IV. ADMISSION TO PRACTICE LAW

CHAPTER 71. PENNSYLVANIA BAR ADMISSION RULES

Subchapter C. RESTRICTED PRACTICE OF LAW FOREIGN LEGAL CONSULTANTS

Rule 341. Licensing of foreign legal consultants.

(a) *Required qualifications.* An applicant may be licensed to practice in this Commonwealth as a foreign legal consultant, without examination, if the applicant:

(1) is a member in good standing of a recognized legal profession in a foreign country, the members of which are admitted to practice as attorneys or counselors at law or the equivalent and are subject to effective regulation and discipline by a duly constituted professional body or a public authority;

(2) for at least five of the seven years immediately preceding his or her application has been a member in good standing of such legal profession in the foreign country and has actually been engaged in the practice of law in the foreign country or elsewhere substantially involving or relating to the rendering of advice or the provision of legal services concerning the law of the foreign country;

(3) possesses the good moral character and general fitness requisite for a member of the bar of this Commonwealth;

(4) is at least 26 years of age;

(5) intends to practice as a foreign legal consultant in this Commonwealth and to maintain an office in this Commonwealth for that purpose; and

(6) has passed the Multistate Professional Responsibility Exam with the score required by the court to be achieved by successful applicants under Rule 203.

(b) *Application.* An applicant under this rule shall file with the Board an application in the form prescribed by the Board, which shall be accompanied by:

(1) a certificate from the professional body or public authority in the foreign country having final jurisdiction over professional discipline, certifying as to the applicant's admission to practice and the date thereof, and as to his or her good standing as such attorney or counselor at law or the equivalent;

(2) a letter of recommendation from one of the members of the executive body of such professional body or public authority or from one of the judges of the highest law court or court of original jurisdiction of the foreign country;

(3) a duly authenticated English translation of the certificate and the letter if, in either case, it is not in English;

(4) a statement indicating his or her understanding of, and commitment to observe the Rules of Professional Conduct and the Enforcement Rules to the extent applicable to the legal services authorized under Rule 342;

(5) appropriate evidence of professional liability insurance, in such amount as the Board may prescribe, to assure his or her proper professional conduct and responsibility;

(6) such other evidence as to the applicant's educational and professional qualifications, good moral character and general fitness, and compliance with the requirements of Subdivision (a) of this Rule as the Board may require;

(7) a written statement agreeing to notify the Prothonotary of the Supreme Court and the Secretary of the Disciplinary Board of any change in the applicant's good standing as a member of the foreign legal profession referred to in Subdivision (a)(1) of this Rule and of any final action of the professional body or public authority referred to in Subdivision (b)(1) of this Rule imposing any disciplinary censure, suspension, or other sanction upon such person; and

(8) a duly acknowledged instrument, in writing, setting forth his or her address in this Commonwealth and designating the Prothonotary of the Supreme Court as his or her agent upon whom process may be served, with like effect as if served personally upon him or her; in any action or proceeding thereafter brought against him or her and arising out of or based upon any legal services rendered or offered to be rendered by him or her within or to residents of this Commonwealth, whenever after due diligence service cannot be made upon him or her at such address or at such new address in this Commonwealth as he or she shall have filed in the office of the Prothonotary by means of a duly acknowledged supplemental instrument in writing or shall have furnished in the last registration statement filed by him or her in accordance with Enforcement Rule 219(d) (relating to periodic assessment of attorneys).

(c) *Application fee.* An applicant for a license as a foreign legal consultant under this Rule shall pay an application fee fixed by the Board.

(d) *Action by the Board.* The board may, in its discretion, issue to an applicant its certificate recommending his or her licensure as a foreign legal consultant if the applicant has met the requirements of this rule. In considering whether to issue a certificate recommending an applicant to practice as a foreign legal consultant under this Rule, the Board may in its discretion take into account whether a member of the bar of this Commonwealth would have a reasonable and practical opportunity to establish an office for the giving of legal advice to clients in the applicant's country of admission. Any member of the bar who is seeking or has sought to establish an office in that country may request the Board to consider whether applicants from that country should be denied the opportunity to be licensed as foreign legal consultants under this Rule, or the Board may do so sua sponte.

(e) *Motion for licensure.* An applicant shall file a motion for licensure as a foreign legal consultant with the Prothonotary of the Supreme Court, accompanied by the certificate from the Board recommending such licensure. If the motion is in proper order, the Prothonotary shall:

(1) Enter the name of the applicant upon the docket of persons licensed as foreign legal consultants in this Commonwealth.

(2) Notify the Administrative Office of the licensure of the foreign legal consultant.

(3) If the requisite fee has been paid therefore, issue an engrossed certificate of licensure under seal.

(f) *Subsequent admission to bar.* In the event that a person licensed as a foreign legal consultant under this Rule is subsequently admitted as a member of the bar of this Commonwealth under Subchapter B (relating to admission to the bar generally), the license granted to such person under this Rule shall be deemed superseded by the license granted to such person to practice law as a member of the bar of this Commonwealth.

Rule 342. Practice by foreign legal consultants.

(a) *Prohibited activities.* A person licensed to practice as a foreign legal consultant under Rule 341 (relating to licensing of foreign legal consultants) may render legal services in this Commonwealth with respect to the law of the foreign country where the foreign legal consultant is admitted to practice law, subject, however, to the limitations that he or she shall not:

(1) appear for a person other than himself or herself as attorney in any court, or before any magistrate or other judicial officer, in this Commonwealth (other than upon admission pro hac vice pursuant to Rule 301 (relating to admission pro hac vice));

(2) prepare any instrument effecting the transfer or registration of title to real estate located in the United States of America;

(3) prepare:

(i) any will or trust instrument effecting the disposition on death of any property located in the United States of America and owned by a resident thereof, or

(ii) any instrument relating to the administration of a decedent's estate in the United States of America;

(4) prepare any instrument in respect of the marital or parental relations, rights or duties of a resident of the United States of America, or the custody or care of the children of such a resident;

(5) render professional legal advice on the law of this Commonwealth, of any other jurisdiction in which he or she is not authorized to practice law or of the United States of America (whether rendered incident to the preparation of legal instruments or otherwise);

(6) be, or in any way hold himself or herself out as, a member of the bar of the Supreme Court of Pennsylvania; or

(7) carry on his or her practice under, or utilize in connection with such practice, any name, title or designation other than one or more of the following:

(i) his or her own name;

(ii) the name of the law firm with which he or she is affiliated;

(iii) his or her authorized title in the foreign country of his or her admission to practice, which may be used in conjunction with the name of such country; and

(iv) the title "foreign legal consultant," which may be used in conjunction with the words "admitted to the practice of law in [name of the foreign country of his or her admission to practice]."

(b) *Rights and obligations.* Subject to the limitations set forth in Subdivision (a) of this Rule, a person licensed as a foreign legal consultant under Rule 341 shall be

considered a lawyer affiliated with the bar of this Commonwealth and shall be entitled and subject to:

(1) the rights and obligations set forth in the Rules of Professional Conduct or arising from the other conditions and requirements that apply to a member of the bar of this Commonwealth under the Enforcement Rules; and

(2) the rights and obligations of a member of the bar of this Commonwealth with respect to:

(i) affiliation in the same law firm with one or more members of the bar of this Commonwealth, including by:

(A) employing one or more members of the bar of this Commonwealth;

(B) being employed by one or more members of the bar of this Commonwealth or by any law firm that includes members of the bar of this Commonwealth or which maintains an office in this Commonwealth; and

(C) being a partner in any law firm that includes members of the bar of this Commonwealth or which maintains an office in this Commonwealth; and

(ii) attorney-client privilege, work-product privilege and similar professional privileges.

(c) *Discipline.* A person licensed to practice as a foreign legal consultant under Rule 341 shall be subject to professional discipline in the same manner and to the same extent as members of the bar of this Commonwealth. The license of a foreign legal consultant shall be revoked when he or she no longer meets the requirements and obligations for licensing set forth in Rule 341 (a)(1). A foreign legal consultant shall not be subject to the Pennsylvania Rules for Continuing Legal Education.

(d) *Service of process.* Service of process on the Prothonotary of the Supreme Court, pursuant to the designation filed under Rule 341(b)(8), shall be made by personally delivering to and leaving with the Prothonotary, or with a deputy or assistant authorized by him or her to receive such service, at his or her office, duplicate copies of such process together with a fee as set by the Prothonotary. Service of process shall be complete when the Prothonotary has been so served. The Prothonotary shall promptly send one of such copies to the foreign legal consultant to whom the process is directed, by certified mail, return receipt requested, addressed to the foreign legal consultant at the address specified by him or her as provided in Rule 341(b)(8).

Annex B

PART V. PROFESSIONAL ETHICS AND CONDUCT

Subpart B. DISCIPLINARY ENFORCEMENT

CHAPTER 83. PENNSYLVANIA RULES OF DISCIPLINARY ENFORCEMENT

Subchapter A. PRELIMINARY PROVISIONS

Rule 102. Definitions.

(a) *General rule.* Subject to additional definitions contained in subsequent provisions of these rules which are applicable to specific provisions of these rules, the following words and phrases when used in these rules shall have, unless the context clearly indicates otherwise, the meanings given to them in this rule:

* * * * *

"Foreign legal consultant." A person who holds a current license as a foreign legal consultant issued

under Rule 341 of the Pennsylvania Bar Admission Rules.

* * * * *

"Practice of law." Includes the provision of legal services as a foreign legal consultant.

* * * * *

"Respondent-attorney" or "attorney." Includes any person subject to these rules.

* * * * *

Subchapter B. MISCONDUCT

Rule 203. Grounds for discipline.

* * * * *

(b) The following shall also be grounds for discipline:

* * * * *

(5) Ceasing to meet the requirements for licensure as a foreign legal consultant set forth in Pennsylvania Bar Admission Rule 341(a)(1) or (3).

* * * * *

Rule 212. Substituted service.

In the event a respondent-attorney cannot be located and personally served with notices required under these rules, such notices may be served upon the respondent-attorney by addressing them to the address furnished by the respondent-attorney in the last registration statement filed by such person in accordance with Enforcement Rule 219(d) (relating to periodic assessment of attorneys) **or, in the case of a foreign legal consultant, by serving them on the Prothonotary of the Supreme Court pursuant to the designation filed by the foreign legal consultant under Pennsylvania Bar Admission Rule 341(b)(8).**

Rule 216. Reciprocal discipline.

(a) Upon receipt of a certified copy of an order demonstrating that an attorney admitted to practice in this Commonwealth has been disciplined by suspension or disbarment in another jurisdiction, the Supreme Court shall forthwith issue a notice directed to the respondent-attorney containing:

* * * * *

The Board shall cause this notice to be served upon the respondent-attorney by mailing it to the address furnished by the respondent-attorney in the last registration statement filed by such person in accordance with Enforcement Rule 219(d) (relating to periodic assessment of attorneys) **or, in the case of a foreign legal consultant, by serving it on the Prothonotary of the Supreme Court pursuant to the designation filed by the foreign legal consultant under Pennsylvania Bar Admission Rule 341(b)(8).**

* * * * *

Rule 217. Formerly admitted attorneys.

* * * * *

(h) Within ten days after the effective date of an order of disbarment or suspension for a period longer than one year, the formerly admitted attorney shall surrender to the Board the certificate issued by the Court Administrator of Pennsylvania under Rule 219(e) (relating to periodic assessment of attorneys; voluntary inactive status) for the current year, along with any certificate of good standing issued under Pennsylvania Bar Admission Rule 201(d) (relating to certification of good standing) [or],

certificate of admission issued under Pennsylvania Bar Admission Rule 231(d)(3) (relating to action by Prothonotary) **or certificate of licensure issued under Pennsylvania Bar Admission Rule 341(e)(3) (relating to motion for licensure)**. The Board may destroy the annual certificate issued under Rule 219(e), but shall retain any other documents surrendered under this subdivision and shall return those documents to the formerly admitted attorney in the event that he or she is subsequently reinstated.

* * * * *

Rule 219. Periodic assessment of attorneys; voluntary inactive status.

* * * * *

(d) On or before July 1 of each year all persons required by this rule to pay an annual fee shall file with the Administrative Office a signed statement on the form prescribed by the Administrative Office in accordance with the following procedures:

(1) The statement shall set forth:

(i) The date on which the attorney was first admitted to practice **or licensed as a foreign legal consultant** in this Commonwealth, and a list of all courts (except courts of this Commonwealth) and jurisdictions in which the person has ever been licensed to practice law, with the current status thereof.

* * * * *

(4) Upon original admission to the bar of this Commonwealth **or licensure as a foreign legal consultant**, a person shall concurrently file a statement under this subdivision for the current assessment year, but no annual fee shall be payable for the assessment year in which originally admitted **or licensed**.

* * * * *

**Subchapter E. CLIENT SECURITY FUND
DISHONEST CONDUCT OF ATTORNEY**

Rule 512. Covered attorney.

This subchapter covers conduct of an active member of the bar of the Supreme Court **or active foreign legal consultant** which conduct forms the basis of the application to the Board. The conduct complained of need not have taken place in this Commonwealth for application to the Board to be considered by the Board and an award granted, **except that an award shall not be granted with respect to conduct of a foreign legal consultant outside of this Commonwealth unless the conduct related to the provision of legal services to a resident of this Commonwealth.**

[Pa.B. Doc. No. 04-548. Filed for public inspection April 2, 2004, 9:00 a.m.]

**PART V. PROFESSIONAL ETHICS AND CONDUCT
[204 PA. CODE CH. 81]**

**Amendments to Rule of Professional Conduct 1.15
Relating to Safekeeping of Property**

Notice is hereby given that The Disciplinary Board of the Supreme Court of Pennsylvania is considering recommending to the Pennsylvania Supreme Court that it amend Pennsylvania Rule of Professional Conduct 1.15 as

set forth in Annex A to clarify the requirements of that rule with respect to the safekeeping of property of clients and third persons.

Changes to R.P.C. 1.15 were included in the recommendations of the American Bar Association's Ethics 2000 Commission. The recommended changes to R.P.C. 1.15 were subsequently approved by the Pennsylvania Bar Association. The changes to R.P.C. 1.15 were not included, however, with the other changes to the Rules of Professional Conduct that were recommended to the Supreme Court of Pennsylvania because the Board wanted to study the possibility of making additional changes to R.P.C. 1.15. The Board is now seeking comments on a proposed revision of R.P.C. 1.15. The proposed text of R.P.C. 1.15 set forth in Annex A includes all the changes recommended as part of Ethics 2000 and also includes changes that the Board has developed based on the Model Rule on Financial Recordkeeping prepared by the American Bar Association.

Interested persons are invited to submit written comments regarding the proposed amendments to the Office of the Secretary, The Disciplinary Board of the Supreme Court of Pennsylvania, First Floor, Two Lemoyne Drive, Lemoyne, PA 17043, on or before May 7, 2004.

*By The Disciplinary Board of the
Supreme Court of Pennsylvania*

ELAINE M. BIXLER,
Executive Director and Secretary

Annex A

**TITLE 204. JUDICIAL SYSTEM GENERAL
PROVISIONS**

PART V. PROFESSIONAL ETHICS AND CONDUCT

Subpart A. PROFESSIONAL RESPONSIBILITY

**CHAPTER 81. RULES OF PROFESSIONAL
CONDUCT**

**Subchapter A. RULES OF PROFESSIONAL
CONDUCT**

§ 81.4. Rules of Professional Conduct.

The following are the Rules of Professional Conduct:

CLIENT-LAWYER RELATIONSHIP

Rule 1.15. Safekeeping Property.

(a) A lawyer shall hold property of clients or third persons that is in a lawyer's possession in connection with a representation **or in a fiduciary capacity** separate from the lawyer's own property. Funds shall be kept in a separate account maintained in the state where the lawyer's office is situated, or elsewhere with the consent of the client or third person. Other property shall be identified as such and appropriately safeguarded. Complete records of **the receipt, maintenance and disposition** of such account funds and other property **and a copy of any writing required by Rule 1.5(b) or (c) with respect to each client whose funds or property are so held** shall be preserved for a period of five years after termination of the representation, **or after distribution of the property, whichever is later. At all times while a lawyer holds funds in connection with a representation or in a fiduciary capacity, the lawyer shall also maintain another account that is not used to hold such funds.**

(b) A lawyer may deposit a lawyer's own funds in a client trust account for the sole purpose of paying bank service charges on that account, but only in an amount necessary for that purpose.

(c) A lawyer shall deposit into a client trust account legal fees and expenses that have been paid in advance, to be withdrawn by the lawyer only as fees are earned or expenses incurred, unless the client gives informed consent, confirmed in writing, to the handling of such funds in a different manner.

[(b)] (d) * * *

[(c)] (e) When in the course of representation a lawyer is in possession of property in which [both the lawyer and another person] two or more persons, one of whom may be the lawyer, claim interest, the property shall be kept separate by the lawyer until [there is an accounting and severance of their interests. If a dispute arises concerning their respective interests, the portion in dispute shall be kept separate by the lawyer until] the dispute is resolved. The lawyer shall promptly distribute all portions of the property as to which the interests are not in dispute.

[(d)] (f) Notwithstanding paragraphs [(a), (b) and (c)] (a) through (e), and except as provided below in paragraph [(e)] (g), a lawyer shall place all funds of a client or of a third person in an interest bearing account. All qualified funds received by the lawyer shall be placed in an interest On Lawyer Trust Account in a depository institution approved by the Supreme Court of Pennsylvania. All other funds of a client or a third person received by the lawyer shall be placed in an interest bearing account for the benefit of the client or third person or in another investment vehicle specifically agreed upon by the lawyer and the client or third party.

* * * * *

[(e)] (g) A lawyer shall be exempt from the provisions of paragraph [(d)] (f) only upon exemption requested and granted by the IOLTA Board. Exemptions shall be granted if: (i) the nature of the lawyer's practice does not require the routine maintenance of a trust account in Pennsylvania; (ii) compliance with paragraph [(d)] (f) would work an undue hardship on the lawyer or would be extremely impractical, based either on the geographical distance between the lawyer's principal office and the closest depository institution which is described in paragraph [(d)] (f)(2), or in other compelling and necessitous factors; or (iii) the lawyer's historical annual trust account experience, based on information from the depository institution in which the lawyer deposits trust funds, demonstrates that service charges on the account would significantly and routinely exceed any interest generated.

[(f)] (h) * * *

[(g)] (i) * * *

* * * * *

[(h)] (j) * * *

* * * * *

[(i)] (k) * * *

(l) The following books and records shall be maintained for each account (a "trust account") in which a lawyer holds funds in connection with a representation or in a fiduciary capacity:

(1) bank statements and check registers (which shall include the payee, date, amount and the client matter involved);

(2) all transaction records returned by the bank, including canceled checks in whatever form and records of electronic transactions; and

(3) records of deposits and a ledger separately listing each deposited item and the client or third person for whom the deposit is being made.

(m) The records required by this rule may be maintained in electronic or other form if they can be retrieved in printed hard copy. Electronic records must be regularly backed up by an appropriate storage device.

Comment:

1. A lawyer should hold property of others with the care required of a professional fiduciary. Securities should be kept in a safe deposit box, except when some other form of safekeeping is warranted by special circumstances. All property which is the property of clients or third persons [should], including prospective clients, must be kept separate from the lawyer's business and personal property and, if monies, in one or more trust accounts. Separate trust accounts may be warranted when administering estate monies or acting in similar fiduciary capacities. **Whenever a lawyer holds funds of another person, the lawyer must maintain at least two accounts: one in which those funds are held and another in which the lawyer's own funds may be held.**

2. While normally it is impermissible to commingle the lawyer's own funds with client funds, paragraph (b) provides that it is permissible when necessary to pay bank service charges on that account. Accurate records must be kept regarding that part of the funds which are the lawyer's.

3. Lawyers often receive funds from [third parties from] which the lawyer's fee will be paid. [If there is risk that the client may divert the funds without paying the fee, the] The lawyer is not required to remit [the portion from which the fee is to be paid] to the client funds that the lawyer reasonably believes represent fees owed. However, a lawyer may not hold funds to coerce a client into accepting the lawyer's contention. The disputed portion of the funds [should] must be kept in a trust account and the lawyer should suggest means for prompt resolution of the dispute, such as arbitration. The undisputed portion of the funds shall be promptly distributed.

4. [Third parties, such as a client's creditors,] Paragraph (e) also recognizes that third parties may have [just] lawful claims against specific funds or other property in a lawyer's custody such as a client's creditor who has a lien on funds recovered in a personal injury action. A lawyer may have a duty under applicable law to protect such third-party claims against wrongful interference by the client [, and accordingly, may]. In such cases, when the third party claim is not frivolous under applicable law, the lawyer must refuse to surrender the property to the

client **unless the claims are resolved.** [However, a] A lawyer should not unilaterally assume to arbitrate a dispute between the client and the third party. **When there are substantial grounds for dispute as to the person entitled to the funds, the lawyer may file an action to have a court resolve the dispute.**

5. The obligations of a lawyer under this Rule are independent of those arising from activity other than rendering legal services. For example, a lawyer who serves **only** as an escrow agent is governed by the applicable law relating to fiduciaries even though the lawyer does not render legal services in the transaction, **and is not governed by this Rule.**

6. [A "client's security fund" provides a means through the collective efforts of the bar to reimburse persons who have lost money or property as a result of dishonest conduct of a lawyer. Where such a fund has been established, a lawyer should participate.] A lawyer must participate in the Pennsylvania Lawyers Fund for Client Security. It is a means through the collective efforts of the bar to reimburse persons who have lost money or property as a result of dishonest conduct of a lawyer.

7. Paragraphs (g) through (k) provide for the Interest on Lawyer Trust Account (IOLTA) program and distinguish two types of funds of clients and third parties held by a lawyer: qualified funds, which must be placed in an IOLTA account, and other funds, which are to be placed in an interest bearing account unless the client or third party agrees otherwise. There are further instructions in Rules 219 and 221 of the Pennsylvania Rules of Disciplinary Enforcement and in the Regulations of the Interest on Lawyers Trust Account Board, 204 Pa. Code, § 81.01 et seq., which are referred to as the IOLTA Regulations.

8. Paragraph (l) specifies the records that must be kept by a lawyer with respect to trust accounts. Those records may be kept in electronic form so long as they can be retrieved in printed hard copy. If records are kept in that form, it is essential that a back-up copy be prepared on a regular basis.

9. The records required by this rule may be subject to subpoena in connection with an investigation or hearing pursuant to the Enforcement Rules. Failure to produce such records may result in the initiation of proceedings pursuant to Rule 208(f)(5) of the Pennsylvania Rules of Disciplinary Enforcement, which permits Disciplinary Counsel to commence a proceeding for the temporary suspension of a respondent-attorney who refuses to comply with a valid subpoena.

10. A lawyer who fails to comply with the requirements of this rule in respect of the maintenance, availability and preservation of accounts and records or who fails to produce or to respond completely to questions regarding such records as required shall be deemed to be in violation of paragraphs (a) and (e) and also Rule 8.1(a).

[Pa.B. Doc. No. 04-549. Filed for public inspection April 2, 2004, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CHS. 1900, 1910, 1915, 1920 AND 1930]

Amendments to the Rules of Civil Procedure relating to Domestic Relations Matters; No. 405 Civil Procedural Rules; Doc. No. 5

Order

Per Curiam:

And Now, this 18th day of March, 2004, Rules 1905, 1910.25, 1910.27, 1915.12, 1915.15, 1915.16, 1920.71, 1920.73 and 1930.6 of the Pennsylvania Rules of Civil Procedure are amended as follows.

This order shall be processed in accordance with Pa. R.J.A. 103(b) and shall be effective on June 16, 2004.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1900. ACTIONS PURSUANT TO THE PROTECTION FROM ABUSE ACT

Rule 1905. Forms for Use in PFA Actions. Notice and Hearing. Petition. Temporary Protection Order. Final Protection Order.

(a) The Notice of Hearing and Order required by Rule 1901.3 shall be substantially in the following form:

(Caption)

NOTICE OF HEARING AND ORDER

* * * * *

A hearing on the matter is scheduled for the ____ [,] day of ____ [19] 20__, at ____ .m., in Courtroom ____ at ____ Courthouse, ____, Pennsylvania.

* * * * *

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. YOU HAVE THE RIGHT TO HAVE A LAWYER REPRESENT YOU AT THE HEARING. THE COURT WILL NOT, HOWEVER, APPOINT A LAWYER FOR YOU. IF YOU DO NOT HAVE A LAWYER [OR CANNOT AFFORD ONE], GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW [TO FIND OUT WHERE YOU CAN GET LEGAL HELP]. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE. IF YOU CANNOT FIND A LAWYER, YOU MAY HAVE TO PROCEED WITHOUT ONE.

* * * * *

CHAPTER 1910. ACTIONS FOR SUPPORT**Rule 1910.25. Enforcement. Support Order. Civil Contempt. Petition. Service. No Answer Required.**

* * * * *

(b) The petition shall begin with an order of court in substantially the following form:

(Caption)
ORDER OF COURT

* * * * *

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER [OR CANNOT AFFORD ONE], GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW [TO FIND OUT WHERE YOU CAN GET LEGAL HELP]. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

* * * * *

Rule 1910.27. Form of Complaint. Order. Income and Expense Statement. Health Insurance Coverage Information Form. Form of Support Order. Form Petition for Modification.

* * * * *

(b) The order to be attached at the front of the complaint set forth in subdivision (a) shall be in substantially the following form:

(Caption)
ORDER OF COURT

You, _____, defendant, are ordered to appear at _____ before _____, a conference officer of the Domestic Relations Section, on the _____ day of _____, [19] 20____, at _____M., for a conference, after which the officer may recommend that an order for support be entered against you.

* * * * *

YOU HAVE THE RIGHT TO A LAWYER, WHO MAY ATTEND THE CONFERENCE AND REPRESENT YOU. IF YOU DO NOT HAVE A LAWYER [OR CANNOT AFFORD ONE], GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW [TO FIND OUT WHERE YOU MAY GET LEGAL HELP]. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

* * * * *

(g) The order to be attached at the front of the petition for modification set forth in subdivision (f) shall be in substantially the following form:

(Caption)
ORDER OF COURT

* * * * *

YOU HAVE THE RIGHT TO A LAWYER, WHO MAY ATTEND THE CONFERENCE AND REPRESENT YOU. IF YOU DO NOT HAVE A LAWYER [OR CANNOT AFFORD ONE], GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW [TO FIND OUT WHERE YOU MAY GET LEGAL HELP]. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

* * * * *

CHAPTER 1915. ACTIONS FOR CUSTODY, PARTIAL CUSTODY AND VISITATION OF MINOR CHILDREN**Rule 1915.12. Civil Contempt for Disobedience of Custody Order. Petition. Form of Petition. Service. Order.**

(a) A petition for civil contempt shall begin with a notice and order to appear in substantially the following form:

NOTICE AND ORDER TO APPEAR

Legal proceedings have been brought against you alleging you have [wilfully] wilfully disobeyed an order of court for (custody) (partial custody) (visitation).

* * * * *

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER [OR CANNOT AFFORD ONE], GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW [TO FIND OUT WHERE YOU CAN GET LEGAL HELP]. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

* * * * *

Rule 1915.15. Form of Complaint. Caption. Order. Petition to Modify a Partial Custody or Visitation Order.

* * * * *

(c) The order to be attached at the front of the complaint or petition for modification shall be in substantially the following form:

(Caption)
ORDER OF COURT

* * * * *

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER [OR CANNOT AFFORD ONE], GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW [TO FIND OUT WHERE YOU CAN GET LEGAL HELP]. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION

ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

* * * * *

Rule 1915.16. Form of Order and Notice. Joinder. Intervention.

(a) The order and notice joining a party in an action under Rule 1915.6(a) shall be substantially in the following form:

(Caption)
ORDER AND NOTICE

* * * * *

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER [OR CANNOT AFFORD ONE], GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW [TO FIND OUT WHERE YOU CAN GET LEGAL HELP]. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

* * * * *

(b) The order for notice of the pendency of the action and the right to intervene required by Rule 1915.6(b) shall be substantially in the following form:

(Caption)
ORDER AND NOTICE

* * * * *

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER [OR CANNOT AFFORD ONE], GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW [TO FIND OUT WHERE YOU CAN GET LEGAL HELP]. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

* * * * *

CHAPTER 1920. ACTIONS OF DIVORCE OR FOR ANNULMENT OF MARRIAGE

Rule 1920.71. Form of Notice.

The notice required by Rule 1920.12(c) shall be in the following form:

NOTICE TO DEFEND AND CLAIM RIGHTS

* * * * *

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER [OR CANNOT AFFORD ONE], GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW [TO FIND OUT WHERE YOU CAN GET LEGAL HELP]. THIS

OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

* * * * *

Rule 1920.73. Notice of Intention to Request Entry of Divorce Decree. Praecepto to Transmit Record Forms.

(a)(1) The notice of the intention to request entry of divorce decree prescribed by Rule 1920.42(d) shall be substantially in the following form if there is an attorney of record:

(Caption)
NOTICE OF INTENTION TO REQUEST ENTRY
OF DIVORCE DECREE

* * * * *

____ (PLAINTIFF/DEFENDANT) intends to file with the court the attached Praecepto to Transmit Record on or after _____, [19] 20__ requesting that a final decree in divorce be entered.

* * * * *

(2)(i) The notice of the intention to request entry of a § 3301(c) divorce decree prescribed by Rule 1920.42(d) shall be substantially in the following form if there is no attorney of record:

(Caption)
NOTICE OF INTENTION TO REQUEST ENTRY OF
§ 3301(c) DIVORCE DECREE

* * * * *

You have signed a § 3301(c) affidavit consenting to the entry of a divorce decree. Therefore, on or after _____, [19] 20__, the other party can request the court to enter a final decree in divorce.

* * * * *

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER [OR CANNOT AFFORD ONE], GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW [TO FIND OUT WHERE YOU CAN GET LEGAL HELP]. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

(Name)

(Address)

(Telephone Number)

* * * * *

(ii) The notice of the intention to request entry of § 3301(d) divorce decree prescribed by Rule 1920.42(d) shall be substantially in the following form if there is no attorney of record:

(Caption)
NOTICE OF INTENTION TO REQUEST ENTRY
OF § 3301(d) DIVORCE DECREE

* * * * *

You have been sued in an action for divorce. You have failed to answer the complaint or file a counter-affidavit to the § 3301(d) affidavit. Therefore, on or after _____, **[19] 20__**, the other party can request the court to enter a final decree in divorce.

* * * * *

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER **[OR CANNOT AFFORD ONE]**, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW **[TO FIND OUT WHERE YOU CAN GET LEGAL HELP]**. **THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.**

* * * * *

**CHAPTER 1930. RULES RELATING TO DOMESTIC
RELATIONS MATTERS GENERALLY**

Rule 1930.6. Paternity Actions.

* * * * *

(c) *Commencement of Action.* An action shall be initiated by filing a verified complaint to establish paternity

and for genetic testing substantially in the form set forth in subdivision (1) below. The complaint shall have as its first page the Notice of Hearing and Order set forth in subdivision (2) below.

* * * * *

(2) The Notice of Hearing and Order required by this rule shall be substantially in the following form:

(Caption)
NOTICE OF HEARING AND ORDER

* * * * *

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER **[OR CANNOT AFFORD ONE]**, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW **[TO FIND OUT WHERE YOU CAN GET LEGAL HELP]**. **THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.**

* * * * *

[Pa.B. Doc. No. 04-550. Filed for public inspection April 2, 2004, 9:00 a.m.]

RULES AND REGULATIONS

Title 25—ENVIRONMENTAL PROTECTION

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CH. 109]

Safe Drinking Water; Filter Backwash Recycling Rule (FBRR)

The Environmental Quality Board (Board) amends Chapter 109 (relating to safe drinking water). The final-form rulemaking in general pertains to public water systems (PWSs): using surface water or groundwater under direct influence of surface water (GUDI) sources; utilize direct or conventional filtration processes; and recycle backwash water, sludge thickener supernatant or liquid from dewatering processes.

This final-form rulemaking is intended to further protect public health by requiring PWSs, where needed, to institute changes to the return of recycle flows to a plant's treatment process that may otherwise compromise microbial control. The FBRR requires that recycled filter backwash water, sludge thickener supernatant and liquids from dewatering processes must be returned to a location so that all processes of a PWS's conventional or direct filtration including coagulation, flocculation, sedimentation (conventional filtration only) and filtration, are employed. PWSs may apply to the Department of Environmental Protection (Department) for approval to recycle at an alternate location.

This order was adopted by the Board at its meeting of December 16, 2003.

A. Effective Date

The final-form rulemaking will go into effect upon publication in the *Pennsylvania Bulletin*.

B. Contact Persons

For further information, contact Jeffrey A. Gordon, Chief, Division of Drinking Water Management, P. O. Box 8467, Rachel Carson State Office Building, Harrisburg, PA 17105-8467, (717) 772-4018; or Marylou Barton, Assistant Council, Bureau of Regulatory Council, P. O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 787-7060. Information regarding submitting comments on this proposal appears in Section I of this preamble. Persons with a disability may use AT&T Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This final-form rulemaking is available on the Department's website: www.dep.state.pa.us.

C. Statutory Authority

The final-form rulemaking is being made under the authority of section 4 of the Pennsylvania Safe Drinking Water Act (35 P. S. § 721.4), which grants the Board the authority to adopt rules and regulations governing the provision of drinking water to the public, and sections 1917-A and 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-7 and 510-20).

D. Background of the Final-Form Rulemaking

The Board promulgated the Filtration Rule in March 1989 to address the rising number of waterborne disease outbreaks in this Commonwealth. The rule required

PWSs with surface water sources to filter and disinfect the water before use by the public, cover finished water reservoirs, perform treatment performance and water quality compliance monitoring, and provide public notification of violations. The rule also established design and performance standards for the filtration and disinfection treatment techniques intended to protect against the adverse health effects of exposure to *Giardia lamblia*, viruses and legionella, as well as many other pathogenic organisms.

The Board also promulgated the Interim Enhanced Surface Water Treatment Rule (IESWTR) on July 21, 2001. This rule is intended to improve the control of microbial pathogens, specifically including the protozoan *Cryptosporidium parvum*, in drinking water. The IESWTR applies to PWSs serving 10,000 or more people and which use surface water or GUDI sources. GUDI is any water beneath the surface of the ground with the presence of insects or other microorganisms, algae, organic debris or large diameter pathogens such as *Giardia lamblia* and *Cryptosporidium*, or significant and relatively rapid shifts in water characteristics such as turbidity, temperature, conductivity or pH which closely correlate to climatological or surface water conditions. Key provisions of the IESWTR include: 99% *Cryptosporidium* removal requirements for systems that filter; strengthened combined, and individual, filter effluent turbidity performance standards; disinfection benchmark provisions to assure continued levels of microbial protection while facilities take the necessary steps to comply with new disinfection byproduct standards; inclusion of *Cryptosporidium* in the definition of GUDI; and sanitary surveys for all surface water systems, regardless of size.

Water treatment plants generate various waste streams during the water production process as well as during subsequent waste handling procedures. Waste streams can be large in volume, such as spent filter backwash water, which can make up more than 3% of plant production, or very small in volume, like streams of filtrate from a filter press, which may represent less than 0.1% of plant production. The waste streams can be handled in a variety of ways. Some treatment plants recycle the wastewater to the beginning of the treatment cycle, where the water will be treated again. Other plants waste it by sending into the local wastewater treatment plant. Still other plants obtain a discharge permit and release the water to a river or stream after some additional treatment. Increasingly stringent discharge requirements, expensive chemicals and conservation efforts have forced many plants to consider or implement recycling. Recycling of water treatment plant waste streams is an acceptable practice of good water conservation management. This rule does not mandate recycling nor is it intended to discourage the recycling of waste streams.

When a facility recycles filter backwash water, it reintroduces contaminants back into treatment processes. Poor recycle practices can degrade influent water quality and impair treatment process performance. The 1996 Amendments to the Federal Safe Drinking Water Act required the United States Environmental Protection Agency (EPA) to promulgate a regulation governing the recycling of filter backwash water. The EPA promulgated the Federal FBRR on June 8, 2001. The Federal FBRR addresses filter backwash water and two additional recycle streams of concern, sludge thickener supernatant

and liquids from dewatering processes. The EPA believes that establishing a regulation will improve performance at filtration plants by reducing the opportunity for recycle practices to adversely affect plant performance in a way that would allow microbes such as *Cryptosporidium* to pass through into finished water. While the Pennsylvania Filtration Rule and the IESWTR contained treatment technique requirements designed to address microbial pathogens such as *Giardia* and *Cryptosporidium*, neither the Pennsylvania Filtration Rule nor the IESWTR addressed filter backwash recycling practices. About 120 surface water treatment plants using conventional or direct filtration practice some form of waste stream recycling in this Commonwealth.

The Department is incorporating the provisions of the Federal FBRR into the Pennsylvania Safe Drinking Water regulations to retain primacy for enforcement responsibility of safe drinking water. The amendment will provide additional protection against disease-causing organisms (pathogens) in drinking water. This action would address risks associated with certain recycle practices in the least burdensome, most effective and simplest means possible. The amendment will allow recycle practices to be conducted in a manner that does not upset the chemical treatment and coagulation process vital to the performance and contaminant removal capability of a filtration plant. The amendment will also assure that *Cryptosporidium* oocysts in recycled water, as well as source water, receive the full benefit of well-operated treatment processes to achieve at least 99% *Cryptosporidium* removal.

The rule will improve public health by increasing the level of protection from exposure to *Cryptosporidium* and other pathogens in drinking water supplies through improvements in recycling processes at water treatment plants. This will decrease the likelihood of endemic illness from *Cryptosporidium* by several thousand cases annually in the United States, thus reducing health care costs. Implementation of these provisions is expected to reduce the potential for oocysts getting into the finished water and causing cases of cryptosporidiosis. Exposure to other pathogenic protozoa, such as *Giardia*, or other emerging microbial pathogens is likely to be reduced by this rule as well.

In terms of occurrence, *Cryptosporidium* is common in the environment. Most surface water sources contain or are vulnerable to *Cryptosporidium* oocyst contamination at one time or another. Since some people are carriers, oocysts may enter the water through treated and untreated sewage outfall. Other sources of *Cryptosporidium* contamination are those animals that live in or near the water who are likely to deposit oocysts directly into the drinking water supplies. Livestock are notorious carriers of *Cryptosporidium*. Runoff from watersheds allows transport of this pathogen into water bodies used as sources for drinking water treatment plants. Complicating this matter is *Cryptosporidium*'s resistance to standard disinfection practices.

In humans, *Cryptosporidium* may cause a severe infection that can last several weeks. It may cause the death of individuals who have a weaker immune system due to age, cancer treatment, AIDS and antirejection organ replacement drugs. In 1993, *Cryptosporidium* caused over 400,000 people in Milwaukee to experience serious intestinal illness. More than 4,000 were hospitalized and at least 50 deaths were attributed to the *Cryptosporidium* outbreak. There have also been cryptosporidiosis outbreaks in Nevada, Oregon and Georgia over the past several years.

The Technical Assistance Center for Small Water Systems Advisory Board (TAC) reviewed the draft final-form rulemaking at its meeting on August 14, 2003. The TAC endorsed the changes to Chapter 109.

The Water Resources Advisory Committee (WRAC) reviewed the draft final-form rulemaking at its meeting on September 10, 2003. The WRAC endorsed the changes to Chapter 109 with a recommendation that the Department review the definition of "capital improvement" to be sure there are no legal implications.

E. Summary of Changes to the Proposed Rulemaking

§ 109.1 (relating to definitions)

Subparagraph (ii) in the definition of "recycle flows" was deleted since the term "recycle streams" is synonymous with recycle flows.

§ 109.202(h)(1) and (2) (relating to State MCLs, MRDLs and treatment technique requirements)

Paragraph (1) was reworded to clarify the exception in paragraph (2) and the term "recycled" was added to indicate the flows that should be returned through the system's existing filtration processes. Paragraph (2) requires PWSs requiring capital improvements to modify the recycle location to complete all capital improvements by June 8, 2006. A typographical error was corrected.

§ 109.202(h)(3)

This subsection was modified to remove "or expenditure" from the definition of "capital improvements."

F. Summary of Comments and Responses on the Proposed Rulemaking

The Department received comments only from the Independent Regulatory Review Commission (IRRC).

§ 109.1

IRRC suggested that subparagraph (ii) of the "recycle flows" definition be deleted to avoid confusion. The change was made as suggested since "recycle flows" is the term generally used in the final-form rulemaking.

§ 109.202

IRRC commented on a typographical error in subsection (h)(2) as printed in the *Pennsylvania Bulletin*. Subsection (h)(2) has been revised to add the word "paragraph" before the designate (1).

IRRC commented that the definition of "capital improvement" contains the vague phrases "nonrecurring, significant modification" and "nonroutine, long-term physical improvements." These criteria do not clearly indicate which projects would qualify. The final-form rulemaking should identify the specific criteria, such as a cost threshold or the time needed to complete the project, which would allow a PWS to use the later compliance date.

The Department believes that it is difficult to place a time limit or a cost on defining "capital improvement" as they can differ considerably among water systems, even for similar modifications. Costs and completion timeframes are generally unique to each water system. However, the definition of capital improvement in subsection (h)(3) was revised to delete the phrase "or expenditure" to provide clarity.

G. Benefits, Costs and Compliance

Benefits

The final-form rulemaking will benefit customers of PWSs, which utilize direct or conventional filtration, use

surface water or GUDI sources and practice recycling. Currently, there are about 120 systems in this Commonwealth serving water to about 5,178,300 people that meet these criteria.

The economic benefits of the FBRR derive from the increased level of protection to public health. The primary benefits of the final-form rulemaking come from reductions in the risk of illness from microbial pathogens in drinking water. In particular, the FBRR focuses on reducing the risk associated with disinfection resistant pathogens, such as *Cryptosporidium*.

Available literature research demonstrates that increased hydraulic loading or disruptive hydraulic currents, such as may be experienced when plants exceed operating capacity or when recycle is returned directly into the sedimentation basin, can disrupt filter and sedimentation performance. The goal of the amendments is to improve public health by increasing the level of protection from exposure to *Cryptosporidium* and other pathogens (that is, *Giardia* or other waterborne bacterial or viral pathogens) in drinking water supplies through improvements in the recycling process at water systems. Implementation of these provisions is expected to reduce the potential for oocysts getting into the finished water and causing cases of cryptosporidiosis. Exposure to other pathogenic protozoa, such as *Giardia*, or other emerging microbial pathogens is likely to be reduced by this rule as well.

In addition to preventing illnesses, the final-form rulemaking is expected to have other nonhealth related benefits. These benefits result from avoiding nonhealth related costs associated with waterborne disease outbreaks. During an outbreak, local governments and water systems must issue warnings and alerts and may need to provide an alternative source of water. Systems also face negative publicity and possible legal costs. The monetary costs associated with an outbreak can be difficult to quantify and will vary with a host of criteria. However, one study of a *Giardia* outbreak in Luzerne County estimated these nonhealth related costs to be quite significant. This study estimated losses to individuals due to actions taken to avoid the contaminated water at between \$19 million and \$49 million, in 1984 dollars (\$31 million—\$81 million in 2000 dollars). Losses due to averting actions for restaurants and bars totaled \$1 million and \$0.6 million for schools and other businesses, in 1984 dollars. The burden for government agencies was \$230,000 and the outbreak cost the water utility an estimated \$1.8 million, in 1984 dollars.

Compliance Costs

Increased costs will be borne by the regulated community for systems making capital improvements to modify recycle location. Additional training, permitting, surveillance and compliance assistance costs will also be borne by the Department.

The consumers of water supplied by about 120 affected PWSs using surface water or GUDI sources, utilize direct or conventional filtration processes and recycle backwash water, sludge thickener supernatant or liquid from dewatering processes may experience higher water use rates associated with costs for capital improvements to modify recycle locations. The actual increase in water use rates will depend on a number of factors, including population served and type of improvements done.

Compliance Assistance Plan

The Safe Drinking Water Program utilizes the Commonwealth's Pennsylvania Infrastructure Investment Au-

thority Program to offer financial assistance to eligible PWSs. This assistance is in form of a low-interest loan, with some augmenting grant funds for hardship cases. Eligibility is based upon factors such as public health impact, compliance necessity, and project/operational affordability.

Paperwork Requirements

The Department's current data forms will facilitate any additional monitoring and reporting or paperwork.

H. Sunset Review

This final-form rulemaking will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulation effectively fulfills the goals for which it was intended.

I. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on February 21, 2003, the Department submitted a copy of the notice of proposed rulemaking, published at 33 Pa.B. 1234 (March 8, 2003), to IRRC and the Chairpersons of the Senate and House Environmental Resources and Energy Committees for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Department has considered all comments from IRRC, the House and Senate Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on February 25, 2004, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on February 26, 2004, and approved the final-form rulemaking.

J. Findings

The Board finds that:

(1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided as required by law, and all comments were considered.

(3) The final-form rulemaking does not enlarge the purpose of the proposal published at 33 Pa.B. 1234.

(4) The final-form rulemaking is necessary and appropriate for administration and enforcement of the authorizing acts identified in Section C.

K. Order

The Board, acting under the authorizing statutes, orders that:

(a) The regulations of the Department, 25 Pa. Code Chapter 109, are amended by amending §§ 109.1, 109.202 and 109.701 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(b) The Chairperson of the Board shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for review and approval as to legality and form, as required by law.

(c) The Chairperson shall submit this order and Annex A to IRRC and the Senate and House Environmental Resources and Energy Committees as required by the Regulatory Review Act.

(d) The Chairperson of the Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau, as required by law.

(e) This order shall take effect immediately upon publication.

KATHLEEN A. MCGINTY,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 34 Pa.B. 1525 (March 13, 2004).)

Fiscal Note: Fiscal Note 7-382 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION

PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

Subpart C. PROTECTION OF NATURAL RESOURCES

ARTICLE II. WATER RESOURCES

CHAPTER 109. SAFE DRINKING WATER

Subchapter A. GENERAL PROVISIONS

§ 109.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

Liquid from dewatering processes—A stream containing liquids generated from a unit used to concentrate solids for disposal.

* * * * *

Recycle—The act of returning recycle streams to a conventional or direct filtration plant's treatment process.

Recycle flows—Any water, solid or semi-solid generated by a conventional or direct filtration plant's treatment process and residual treatment processes that is returned to the plant's treatment process.

* * * * *

Spent filter backwash water—A stream containing particles dislodged from filter media when the filter is backwashed to clean the filter.

* * * * *

Thickener supernatant—A stream containing the decant from a clarifier, sedimentation basin, or other unit used to treat water, solids or semi-solids from the primary treatment process.

* * * * *

Subchapter B. MCLs, MRDLs OR TREATMENT TECHNIQUE REQUIREMENTS

§ 109.202. State MCLs, MRDLs and treatment technique requirements.

* * * * *

(h) *Recycling of waste stream.*

(1) Except as provided in paragraph (2), a public water system that uses surface water source or GUDI and

provides conventional filtration or direct filtration treatment and recycles spent filter backwash water, thickener supernatant, or liquids from dewatering processes shall return these recycled flows through the processes of the system's existing conventional or direct filtration system as defined in § 109.1 (relating to definitions) or at an alternate location approved by the Department by June 8, 2004.

(2) If capital improvements are required to modify the recycle location to meet the requirement of paragraph (1), the capital improvements shall be completed by June 8, 2006.

(3) Capital improvement means a nonrecurring, significant modification for nonroutine, long-term physical improvements to any part of a public water system, including, but not limited to, construction activities, renovation activities, demolition activities, source development, treatment process modifications, storage modifications, distribution system modifications, waste-processing modifications and all associated design costs.

Subchapter G. SYSTEM MANAGEMENT RESPONSIBILITIES

§ 109.701. Reporting and recordkeeping.

* * * * *

(h) *Reporting and record maintenance requirements for systems recycling their waste streams.*

(1) Public water systems using surface water or GUDI sources and providing conventional filtration or direct filtration treatment and that recycle spent filter backwash water, thickener supernatant, or liquids from dewatering processes shall notify the Department in writing by December 8, 2003. This notification shall include the following information:

(i) A plant schematic showing the origin of all flows that are recycled (including, but not limited to, spent filter backwash water, thickener supernatant and liquids from dewatering processes), the hydraulic conveyance used to transport them and the location where they are reintroduced back into the treatment plant.

(ii) Typical recycle flow in gallons per minute (gpm), the highest observed plant flow experienced in the previous year (gpm), design flow for the treatment plant (gpm) and Department-approved operating capacity for the plant.

(2) *Record maintenance.* Beginning June 8, 2004, public water systems using surface water or GUDI sources and providing conventional filtration or direct filtration and recycling spent filter backwash water, thickener supernatant, or liquids from dewatering processes shall collect and retain on file recycle flow information specified in this paragraph. This information is for the previous year of recycling and shall be available to the Department for review and evaluation at the Department's request:

(i) A copy of the recycle notification and information submitted to the Department under subsection (h).

(ii) A list of all recycle flows and the frequency with which they are returned.

(iii) Average and maximum backwash flow rate through the filters and the average and maximum duration of the filter backwash process in minutes.

(iv) Typical filter run length and a written summary of how filter run length is determined.

(v) The type of treatment provided for the recycle flow.

(vi) Data on the physical dimensions of the equalization or treatment units, or both, typical and maximum hydraulic loading rates, type of treatment chemicals used and average dose and frequency of use, and frequency at which solids are removed, if applicable.

[Pa.B. Doc. No. 04-551. Filed for public inspection April 2, 2004, 9:00 a.m.]

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CH. 109]

Safe Drinking Water; Radionuclides Rule

The Environmental Quality Board (Board) amends Chapter 109 (relating to safe drinking water). The final-form rulemaking includes requirements for uranium, which is not currently regulated, and amendments to the monitoring requirements for combined radium-226 and radium-228, gross alpha particle radioactivity, and beta particle and photon radioactivity. The final-form rulemaking also makes the radionuclides regulations more consistent with other regulations, such as amendments to monitoring frequencies and the point of compliance.

This order was adopted by the Board at its meeting of December 16, 2003.

A. Effective Date

The final-form rulemaking will go into effect upon publication in the *Pennsylvania Bulletin*.

B. Contact Persons

For further information, contact Jeffrey A. Gordon, Chief, Division of Drinking Water Management, P. O. Box 8467, Rachel Carson State Office Building, Harrisburg, PA 17105-8467, (717) 772-4018; or Marylou Barton, Assistant Counsel, Bureau of Regulatory Counsel, P. O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the AT&T Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This final-form rulemaking is available on the Department of Environmental Protection's (Department) website: www.dep.state.pa.us.

C. Statutory Authority

The final-form rulemaking is made under the authority of section 4 of the Pennsylvania Safe Drinking Water Act (35 P. S. § 721.4), which grants the Board the authority to adopt rules and regulations governing the provision of drinking water to the public, and sections 1917-A and 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-7 and 510-20).

D. Background of the Final-Form Rulemaking

In 1976, National Interim Primary Drinking Water Regulations were promulgated for combined radium-226 and radium-228, gross alpha particle radioactivity and beta particle and photon radioactivity. The 1986 reauthorization of the Safe Drinking Water Act (SDWA) required the United States Environmental Protection Agency (EPA) to promulgate maximum contaminant level goals (MCLGs) and National Primary Drinking Water Regulations for the previous radionuclides, radon and uranium.

In 1991, the EPA proposed new radionuclide regulations. These proposed regulations established MCLGs for all of the radionuclides, established maximum contaminant levels (MCLs) for uranium (20 pCi/L or 30 µg/l) and

radon (300 pCi/L) and revised the MCLs for radium-226 (20 pCi/L), radium-228 (20 pCi/L) and beta and photon radioactivity (4 mrem-effective dose equivalent). The proposal also established a standard monitoring framework, and changed the monitoring requirements for beta and photon radioactivity from large systems using surface water and serving over 100,000 people to only those systems that are vulnerable to contamination by radionuclides. The proposed regulation proved controversial, especially the radon component, and the regulation was not finalized at the time.

On April 21, 2000, the EPA published a Notice of Data Availability (NODA) on radionuclides. The NODA included updated information on the health effects of the radionuclides. Based on the updated information, the EPA reestablished the combined radium MCL at 5 pCi/L, the beta and photon radioactivity at 4 mrem and requested comments on establishing a uranium MCL of 20, 40 or 80 µg/l or pCi/L. The EPA excluded radon from the proposed radionuclides rule as required by the 1996 SDWA amendments.

The EPA finalized the radionuclides rule on December 7, 2000. The final Federal regulation applies to all community water systems, retains the MCLs for combined radium-226 and radium-228, gross alpha particle activity and beta and photon radioactivity and establishes the uranium MCL at 30 µg/l, based on kidney toxicity. The final regulation also retains the standard monitoring framework proposed in 1991, as well as beta and photon radioactivity monitoring only for systems that are designated as vulnerable to radionuclide contamination or which utilize waters contaminated by effluents from nuclear facilities. The deadline for adoption of this regulation was 2 years after Federal promulgation, or December 7, 2002. The Department has requested an extension from the EPA to allow the Commonwealth to maintain primacy for the Safe Drinking Water Program. The EPA has granted an extension until December 8, 2004.

To ensure that every customer's water in this Commonwealth meets the MCLs for radionuclides, the Department's Radionuclides Rule requires monitoring at each entry point to a community water system's distribution system. This requirement is consistent with the monitoring requirements for other, comparable drinking water contaminants. By contrast, the 1976 Rule protected only "the average customer" by requiring the collection of monitoring samples from a "free flowing tap."

The Technical Assistance Center for Small Water Systems Advisory Board (Board) reviewed the draft final-form rulemaking at their meeting on August 14, 2003. The Board endorsed the amendments to Chapter 109.

The Water Resources Advisory Committee (WRAC) reviewed the draft final-form rulemaking at their meeting on September 10, 2003. The WRAC recommended that the terms "contaminated," "nuclear facility," "vicinity" and "vulnerable" be defined in the preamble, since they are not defined in the text of the regulation.

"Contaminated systems" will be identified by the prior analytical results for gross beta particle and photon radioactivity. Systems with wide variations in the analytical results or analytical results close to the MCL will be considered a system contaminated by a radioactive source.

"Nuclear facilities" are nuclear power and nonpower plants, Department of Energy facilities, military bases utilizing nuclear materials and radiation-contaminated

sites listed on the EPA's National Priority List or the Nuclear Regulatory Commission's (NRC) Site Decommissioning Management Plan.

"Vulnerable systems" are water systems that are located in the same watershed as a nuclear facility, or located within 15 miles downstream of a nuclear facility. Additional systems may be designated as vulnerable if the watershed contains hazardous geologic conditions, such as carbonate geology, highly fractured bedrock or gravel deposits.

A system will be defined as being "in the vicinity of a nuclear facility" if there is any environmental surveillance data taken by a nuclear facility that is applicable to the system, and which may be used instead of monitoring.

In addition, these terms will be further defined in Departmental guidance.

E. *Summary of Changes to the Proposed Rulemaking*

§ 109.301(8)(iii) (relating to general monitoring requirements)

This subparagraph applies to consecutive water systems and clarifies that the monitoring requirements for radionuclides do not apply to consecutive systems, provided that the public water system from which the finished water is obtained monitors for compliance with the MCLs for radionuclides established by the EPA.

§ 109.301(14)(i)(A)

This subclause was clarified to indicate the initial monitoring starting date for systems serving 3,301 or more persons.

§ 109.301(14)(i)(A)(VI)—(VII) and (B)(I)—(IV)

These subclauses were clarified to indicate that radionuclides are to be monitored individually, not lumped together as a group. Clause (A)(VI) and (VII) was renumbered as (V) and (VI), respectively, at final-form rulemaking due to the deletion of subclause (I).

§ 109.301(14)(i)(B)

This clause was clarified to indicate that January 1, 2008, is the beginning date of a compliance monitoring period.

§ 109.301(14)(i)(D)

This clause was amended to reflect consistent terminology throughout the paragraph. Several terms that all have the same meaning have been replaced by the term "appropriate historical data."

§ 109.301(14)(iii)(A)

This subclause was clarified to indicate that the Department may require more frequent sampling, rather than more frequent monitoring, than specified in subparagraphs (i) and (ii).

§ 109.303(j) (relating to sampling requirements)

This subsection was deleted. It was determined that the location of performance samples is better handled through the permitting process than through the regulation.

§ 109.503(a)(1)(iii)(B)(VII) (relating to public water system construction permits)

This subclause was clarified to indicate that the new source sampling requirements also include radium-226, radium-228 and uranium.

F. *Summary of Comments and Responses on the Proposed Rulemaking*

The only comments submitted on the proposed rulemaking came from the EPA and the Independent Regulatory Review Commission (IRRC). The following is a summary of the comments and the Board's responses.

The EPA noted that the Department left out the sentence stating that when a community water supply (CWS) substitutes gross alpha for radium-226 or uranium, the gross alpha result will be used to determine the future monitoring frequency for radium-226 or uranium, and that this omission could leave a reader unclear about how to determine when next to sample for radium-226 or uranium. The Board disagrees that this omission could result in confusion. When the gross alpha value is substituted for the radium-226 or uranium, or both, the result becomes the result for radium-226 or uranium, or both. The future monitoring is based on the values for radium-226 and uranium, not the gross alpha value.

IRRC commented that the phrases "historical monitoring data," "monitoring data," "appropriate historical monitoring data" and "appropriate historical data" have the same meaning, and that one term should be used consistently. The Board has changed the final-form rulemaking to reflect the use of one consistent term, "appropriate historical data."

IRRC commented that the term "environmental surveillance data" needs to be clarified. The Board notes that this term is not defined in the Federal regulation, but will include samples collected by either the nuclear facility or the Department. Environmental surveillance data typically include surface water samples downstream of the facility, air samples, milk samples and sediment samples. Several of the nuclear facilities (Susquehanna, Three Mile Island and Limerick) also collect samples at nearby water treatment plants.

IRRC questioned what criteria the Department will use to determine if a community water system is in the vicinity of a nuclear facility. The Board notes that the only place in the final-form rulemaking where the term "vicinity of a nuclear facility" is used is in the utilization of environmental surveillance data. Therefore, if the environmental surveillance data is applicable to the system, it will be considered to be in the "vicinity of a nuclear facility." If the environmental surveillance data are not applicable to the system, it is not considered to be in the "vicinity."

IRRC commented that the proposed rulemaking did not contain a definition of a "nuclear facility" and questioned the rationale for defining the term in the preamble, rather than in the rulemaking. The Board notes that EPA does not include a definition of "nuclear facility" in its regulation. The definition is included in the guidance documents. The Board believes that it is in the best interest of the Commonwealth to define a term in the same manner that the EPA does. "Nuclear facilities" are defined as nuclear power and nonpower plants, Department of Energy facilities, military bases utilizing nuclear materials and radiation-contaminated sites listed on the EPA's National Priority List or the NRC's Site Decommissioning Management Plan.

The EPA commented that the proposed rulemaking did not contain provisions consistent with 40 CFR 141.66(f) (relating to maximum contaminant levels for radionuclides), which lists compliance dates. The Board notes that the compliance dates for the MCL and public notification requirements are incorporated by reference.

The monitoring requirement will become effective immediately upon publication in the *Pennsylvania Bulletin*.

The EPA commented that the proposed rulemaking did not contain provisions in the new regulations consistent with 40 CFR 141.66(g), which lists best available technologies (BAT). The Board has never listed BAT in its regulations. BAT is used for obtaining variances and exemptions. The Board requires the use of "the best treatment technology that the Department, in concurrence with the Administrator, finds are generally available to reduce the level of the contaminant." BAT is also considered in the Department's permitting program, which the EPA does not have.

IRRC requested clarification on § 109.301(14)(iii)(A) concerning the requirement of more frequent monitoring. The Board has identified conditions where more frequent monitoring may be required. These conditions are listed in § 109.302 (relating to special monitoring requirements).

IRRC requested clarification on § 109.303(j) concerning performance monitoring. The Board has deleted this section, since it was determined that it would be best to address this issue on a case-by-case basis in the permitting process, rather than in regulation.

G. Benefits, Costs and Compliance

Benefits

The purpose of the radionuclide regulation is to minimize the public risk of consuming drinking water containing unsafe levels of naturally occurring and manmade radionuclides.

The current regulations do not provide protection from kidney damage due to the presence of high levels of uranium in drinking water. The new uranium MCL will reduce the exposure of 620,000 persons in the United States to this contaminant, will protect CWS customers from exposure to uranium at levels that may cause kidney damage and will reduce the risk of cancer caused by exposure to uranium. An estimated 0.8 cancer case are expected to be avoided annually in the United States due to the MCL, resulting in estimated benefits of \$3 million per year. (The monetary benefits from reduced kidney damage cannot be quantified because of limitation in existing health effects models at levels near the MCL.) Reducing the presence of uranium in drinking water will also remove other contaminants, providing additional benefits to CWS customers.

The current regulations do not require the analysis of radium-228 unless the gross alpha particle activity is greater than 5 pCi/L. However, since radium-228 is a beta emitter, linking the sampling to results of alpha particle activity is not protective of health. The new rule sets separate monitoring requirements for radium-228, which are expected to reduce the exposure of 420,000 persons in the United States and result in the avoidance of 0.4 cancer case per year, with estimated monetized health effects benefits of \$2 million annually. Water mitigation for radium also tends to reduce iron and manganese levels and hardness, which also has significant associated benefits.

In addition to providing increased public protection, the final-form rulemaking allows for reduced monitoring frequencies in systems where the concentration of radionuclides is low. The reduced monitoring will result in lower costs for compliance with the final-form rulemaking.

Compliance Costs

The compliance cost depends on the number of entry points to the distribution system for a CWS and whether the MCL is exceeded. CWSs have been monitoring for gross alpha and radium since the late 1970s. Since 1986, CWSs in this Commonwealth have also been monitoring for radium-226 and radium-228 when the gross alpha exceeds 5 pCi/L. CWSs in this Commonwealth that have exceeded the combined radium MCL have either provided treatment or abandoned the source. The Department will also use the option that allows the grandfathering of previous compliance monitoring results to reduce the initial compliance monitoring for gross alpha and combined radium, as well as uranium, if applicable. There should be minimal additional monitoring costs associated with the combined radium MCL, except possibly for CWSs that have more than a single entry point to the distribution system.

The only new MCL is for uranium, which the Department has incorporated by reference in § 109.202(a)(2) (relating to State MCLs, MRDLs and treatment technique requirements). The EPA has estimated that the cost for the analysis of total uranium is approximately \$48 per sample (by laser phosphorimetry, 1999 dollars). The cost to individual CWSs will depend on the number of entry points. The larger systems will have more entry points than a smaller system. The cost estimate for uranium testing has been estimated to be \$37—\$512 per year per system.

The EPA has not done a cost analysis for the uranium MCL of 30 µg/l. It has, however, done cost analyses for MCLs of 20 µg/l and 40 µg/l. Based on these analyses, it is estimated that Nationwide between 430 and 970 CWSs will require treatment to meet the uranium MCL with a total estimated annual cost of \$68 million to \$157 million.

Compliance Assistance Plan

The Safe Drinking Water Program utilizes the Commonwealth's Pennsylvania Infrastructure Investment Authority Program to offer financial assistance to eligible public water systems. This assistance is in the form of a low-interest loan, with some augmenting grant funds for hardship cases. Eligibility is based upon factors such as public health impact, compliance necessity and project/operational affordability.

The Safe Drinking Water Program has established a network of regional and central office training staff that is responsive to identifiable training needs. The target audience in need of training may be either the program staff or the regulated community. Training is anticipated for water systems in Fall 2004.

In addition to this network of training staff, the Bureau of Water Supply and Wastewater Management has a division dedicated to providing both training and outreach support services to public water system operators. The Department's website also contains the Drinking Water and Wastewater Operator Information Center website, which provides a bulletin board of timely, useful information for treatment plant operators.

Paperwork Requirements

Community water systems are already required to monitor for radionuclides. Systems may use existing forms for compliance with this final-form rulemaking. It is anticipated that the majority of systems will be able to monitor on 6-year and 9-year frequencies, rather than the 4-year frequency that is required under the existing

regulations. This reduced monitoring frequency will reduce the paperwork and recordkeeping requirements.

H. Sunset Review

This final-form rulemaking will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the final-form rulemaking effectively fulfills the goals for which it was intended.

I. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on February 21, 2003, the Department submitted a copy of the notice of proposed rulemaking, published at 33 Pa.B. 1239 (March 8, 2003), to IRRC and the Chairpersons of the Senate and House Environmental Resources and Energy Committees for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Department has considered all comments from IRRC, the House and Senate Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on February 25, 2004, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on February 26, 2004, and approved the final-form rulemaking.

J. Findings

The Board finds that:

(1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided as required by law, and all comments were considered.

(3) The final-form rulemaking does not enlarge the purpose of the proposed rulemaking published at 33 Pa.B. 1239.

(4) The final-form rulemaking is necessary and appropriate for administration and enforcement of the authorizing acts identified in Section C.

K. Order

The Board, acting under the authorizing statutes, orders that:

(a) The regulations of the Department, 25 Pa. Code Chapter 109, are amended by amending §§ 109.301, 109.303 and 109.503 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(b) The Chairperson of the Board shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for review and approval as to legality and form, as required by law.

(c) The Chairperson shall submit this order and Annex A to IRRC and the Senate and House Environmental Resources and Energy Committees as required by the Regulatory Review Act.

(d) The Chairperson of the Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau, as required by law.

(e) This order shall take effect immediately upon publication.

KATHLEEN A. MCGINTY,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 34 Pa.B. 1525 (March 13, 2004).)

Fiscal Note: Fiscal Note 7-381 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION
PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

Subpart C. PROTECTION OF NATURAL RESOURCES

ARTICLE II. WATER RESOURCES

CHAPTER 109. SAFE DRINKING WATER

Subchapter C. MONITORING REQUIREMENTS

§ 109.301. General monitoring requirements.

The monitoring requirements established by the EPA under the National Primary Drinking Water Regulations, 40 CFR Part 141 (relating to national primary drinking water regulations), as of December 8, 1984, are incorporated by reference. Public water suppliers shall monitor for compliance with MCLs and MRDLs in accordance with the requirements established in the National Primary Drinking Water Regulations, except as otherwise established by this chapter unless increased monitoring is required by the Department under § 109.302 (relating to special monitoring requirements). Alternative monitoring requirements may be established by the Department and may be implemented in lieu of monitoring requirements for a particular National Primary Drinking Water Regulation if the alternative monitoring requirements are in conformance with the Federal act and regulations. The monitoring requirements shall be applied as follows:

* * * * *

(8) Monitoring requirements for public water systems that obtain finished water from another public water system.

* * * * *

(iii) Consecutive water suppliers are exempt from conducting monitoring for the MCLs for VOCs, SOCs, IOCs and radionuclides if the public water system from which the finished water is obtained complies with paragraphs (5)—(7) and (14), except that asbestos monitoring is required in accordance with subparagraph (ii)(B).

* * * * *

(14) *Monitoring requirements for radionuclides.* Community water systems shall monitor for compliance with the MCLs for radionuclides established by the EPA under 40 CFR 141.66(b), (c), (d) and (e) (relating to maximum contaminant levels for radionuclides). The monitoring shall be conducted according to the requirements established by EPA under 40 CFR 141.25 and 141.26 (relating to analytical methods for radioactivity; and compliance requirements for radionuclides in community water systems) which are incorporated by reference, except as modified by this chapter. Initial or first-year monitoring mentioned in this paragraph refers to monitoring conducted on or after January 1, 2005.

(i) *Monitoring requirements for gross alpha particle activity, radium-226, radium-228 and uranium.*

(A) *Initial monitoring schedule.* The initial monitoring shall consist of four consecutive quarterly samples for each radionuclide at each entry point in accordance with the following monitoring schedule except for systems that are granted reduced initial monitoring in accordance with subclause (V).

(I) Systems serving more than 3,301 persons shall begin monitoring during the quarter beginning January 1, 2005.

(II) Systems serving 500 to 3,300 persons shall begin monitoring during the quarter beginning January 1, 2006.

(III) Systems serving fewer than 500 persons shall begin monitoring during the quarter beginning January 1, 2007.

(IV) Systems that add new entry points associated with new sources shall begin initial quarterly monitoring during the first quarter the entry point begins serving the public. Quarterly monitoring shall continue until reduced monitoring is granted in accordance with clause (B) or subclause (V).

(V) If the first 2 quarterly samples for a radionuclide at an entry point have results below the detection limit, as defined in 40 CFR 141.25(c)(1), the final two quarterly samples for that radionuclide at that entry point are waived.

(VI) For entry points at which the monitoring result for a radionuclide at an entry point is above the MCL, the system shall collect and analyze quarterly samples for that radionuclide at that entry point until the system has results from 4 consecutive quarters for that radionuclide at that entry point that are at or below the MCL.

(B) *Repeat monitoring.* Beginning with the January 1, 2008, compliance period, systems shall take one sample for each radionuclide at each entry point in each 3-year compliance period, unless the system qualifies for reduced monitoring as follows:

(I) For entry points where the average of the initial monitoring results for a radionuclide is at or above the detection limit as defined in 40 CFR 141.25(c)(1), but at or below one-half of the MCL for that radionuclide, the repeat monitoring is reduced to one sample for that radionuclide at that entry point every 6 years.

(II) For entry points where the average of the initial monitoring results for a radionuclide is below the detection limit as defined in 40 CFR 141.25(c)(1), the repeat monitoring is reduced to one sample for that radionuclide at that entry point every 9 years.

(III) If a system has a monitoring result that exceeds the MCL for a radionuclide, the system shall collect and analyze quarterly samples for that radionuclide at that entry point beginning the next calendar quarter following the exceedance until the system has results from 4 consecutive quarters for that radionuclide at that entry point that are below the MCL.

(IV) Systems shall use the results of the samples collected during the repeat monitoring period to determine the monitoring frequency for subsequent monitoring periods.

(V) Reduced monitoring does not apply to those systems where treatment has been installed for radionuclide removal to comply with an MCL listed under 40 CFR 141.66. Compliance monitoring for radionuclides where treatment has been installed to comply with an MCL

shall be conducted at least annually, and performance monitoring for the specific radionuclides for which treatment is provided shall be conducted quarterly.

(C) *Gross alpha substitution.* A gross alpha particle activity measurement may be substituted for the required radium-226 measurement provided that the measured gross alpha particle activity does not exceed 5 pCi/L. A gross alpha particle activity measurement may be substituted for the required uranium measurement provided that the measured gross alpha particle activity does not exceed 15 pCi/L. The gross alpha measurement shall have a confidence interval of 95% (1.65σ , where σ is the standard deviation of the net counting rate of the sample) for radium-226 and uranium. If the gross alpha particle activity result is less than the detection limit as defined in 40 CFR 141.25(c)(1), one-half of the detection limit will be used to determine compliance and the future monitoring frequency.

(D) *Grandfathering.* The Department will allow appropriate historical data collected at an entry point to satisfy the initial monitoring requirements required under clause (A) for that entry point in the following situations:

(I) A system having only one entry point may use the monitoring data from the compliance monitoring period between June 2000 and December 8, 2003.

(II) A system with multiple entry points and having appropriate historical data for each entry point may use the monitoring data from the compliance monitoring period between June 2000 and December 8, 2003.

(III) A system with multiple entry points and having appropriate historical data for a representative point in the distribution system may use the monitoring data from the compliance monitoring period between June 2000 and December 8, 2003, provided that the Department finds that the appropriate historical data satisfactorily demonstrate that each entry point is expected to be in compliance based upon the appropriate historical data and reasonable assumptions about the variability of radionuclide levels between entry points. The system shall supply sufficient information to allow the Department to make a written finding indicating how the data conform to these requirements.

(ii) *Monitoring requirements for beta-particle and photon radioactivity.*

(A) Systems designated by the Department as vulnerable to beta-particle or photon radioactivity, or both, shall sample for beta particle and photon radioactivity. Systems shall collect quarterly samples for beta emitters and annual samples for tritium and strontium-90 at each entry point, beginning within 1 quarter after being notified by the Department.

(I) If the gross beta particle activity minus the naturally occurring potassium-40 beta particle activity at an entry point has a running annual average (computed quarterly) less than or equal to 50 pCi/L (screening level), the frequency of monitoring at that entry point shall be repeated every 3 years. Systems shall collect all samples required in clause (A) during the reduced monitoring period.

(II) For systems in the vicinity of a nuclear facility, the system may utilize environmental surveillance data collected by the nuclear facility in lieu of monitoring at the system's entry points, when the Department determines that the data is applicable to the system. If there is a release from a nuclear facility, systems that are using

surveillance data shall begin monitoring at the community water system's entry points in accordance with clause (A).

(B) Systems designated by the Department as utilizing waters contaminated by effluents from nuclear facilities shall sample for beta particle and photon radioactivity. Systems shall monitor quarterly for beta emitters and iodine-131, and annually for tritium and strontium-90 at each entry point, beginning within 1 quarter after being notified by the Department. Monitoring shall be conducted as follows:

(I) Monitoring for gross beta particle activity shall be based on the average of an analysis of 3 monthly samples.

(II) For iodine-131, a composite of five consecutive daily samples shall be analyzed once each quarter. More frequent monitoring, as determined by the Department, shall be conducted when iodine-131 is identified in the finished water.

(III) Monitoring for strontium-90 and tritium shall be conducted by means of the analysis of 4 quarterly samples.

(IV) If the gross beta particle activity minus the naturally occurring potassium-40 beta particle activity at an entry point has a running annual average (computed quarterly) less than or equal to 15 pCi/L (screening level), the frequency of monitoring at that entry point shall be reduced to four consecutive quarterly samples taken once every 3 years. Systems shall collect all samples required in clause (B) during the reduced monitoring period.

(V) For systems in the vicinity of a nuclear facility, the system may utilize environmental surveillance data collected by the nuclear facility in lieu of monitoring at the system's entry points, when the Department determines that the data is applicable to the system. If there is a release from a nuclear facility, systems that are using surveillance data shall begin monitoring at the system's entry points in accordance with clause (B).

(C) Systems designated by the Department to monitor for beta particle and photon radioactivity may not apply to the State for a waiver from the monitoring frequencies specified in clause (A) or (B).

(D) Systems may analyze for naturally occurring potassium-40 beta particle activity from the same or equivalent sample used for the gross beta particle activity analysis. The potassium-40 beta particle activity shall be calculated by multiplying elemental potassium concentrations (in mg/L) by a factor of 0.82.

(E) If the gross beta particle activity minus the naturally occurring potassium-40 beta particle activity exceeds the screening level, an analysis of the sample shall be performed to identify the major radioactive constituents present in the sample. The results of the individual constituent analysis shall be reported in pCi/L, and the appropriate doses must be calculated and summed to determine compliance with the MCL, using the formula in 40 CFR 141.66(d)(2). Doses shall also be calculated and combined for measured levels of tritium and strontium to determine compliance.

(F) Systems shall monitor monthly at the entry points that exceed the MCL beginning the month after the exceedance occurs. Systems shall continue monthly monitoring until the system has established, by a rolling average of three monthly samples, that the MCL is being met. Systems that establish that the MCL is being met shall return to quarterly monitoring until they meet the requirements set forth in subclause (A)(I) or (B)(IV).

(iii) *General monitoring and compliance requirements.*

(A) The Department may require more frequent sampling than specified in subparagraphs (i) and (ii), or may require confirmation samples. The results of the initial and confirmation samples will be averaged for use in compliance determinations.

(B) Each system shall monitor at the time designated by the Department during each compliance period.

(C) Compliance with the MCLs will be determined based on the analytical results obtained at each entry point. If one entry point is in violation of an MCL, the system is in violation of the MCL.

(I) For systems monitoring more than once per year, compliance with the MCL is determined by a running annual average at each entry point. If the running annual average at an entry point is greater than the MCL, the system is in violation of the MCL. If a sample result will cause the running annual average to exceed the MCL at an entry point, the system is in violation of the MCL immediately.

(II) Systems shall include all samples taken and analyzed under this section in determining compliance, even if that number is greater than the minimum required.

(III) If a system does not collect all required samples when compliance is based on a running annual average of quarterly samples, compliance will be based on the running average of the samples collected.

(IV) If a sample result is less than the detection limit, zero will be used to calculate the annual average, unless a gross alpha particle activity is being used in lieu of radium-226 or uranium, or both. If the gross alpha particle activity result is less than detection, one-half of the detection limit will be used to calculate the annual average.

(D) The Department may delete results of obvious sampling or analytic errors.

§ 109.303. Sampling requirements.

* * * * *

(h) Samples taken to determine compliance with combined radium-226 and radium-228, gross alpha particle activity, or uranium under 40 CFR 141.66 (b), (c) and (e) (relating to maximum containment levels for radionuclides) may be composited from a single entry point if the analysis is done within a year of the date of the collection of the first sample. The Department will treat analytical results from the composited sample as the average analytical result to determine compliance with the MCLs and the future monitoring frequency.

(1) If the analytical result from the composited sample is greater than one-half the MCL, the Department may direct the system to take additional quarterly samples before allowing the system to sample under a reduced monitoring schedule.

(2) Samples obtained from an entry point that contains water treated to specifically meet an MCL for a radionuclide contaminant listed under 40 CFR 141.66 (b), (c) or (e) may not be composited.

(i) Samples taken to determine compliance with beta particle and photon radioactivity under 40 CFR 141.66(d) may be composited as follows:

(1) Monitoring for gross beta-particle activity may be based on the analysis of a composite of 3 monthly samples.

(2) Monitoring for strontium-90 and tritium may be based on the analysis of a composite of 4 consecutive quarterly samples.

Subchapter E. PERMIT REQUIREMENTS

§ 109.503. Public water system construction permits.

(a) *Permit application requirements.* An application for a public water system construction permit shall be submitted in writing on forms provided by the Department and shall be accompanied by plans, specifications, engineer's report, water quality analyses and other data, information or documentation reasonably necessary to enable the Department to determine compliance with the act and this chapter. The Department will make available to the applicant the Public Water Supply Manual, available from the Bureau of Water Supply and Community Health, Post Office Box 8467, Harrisburg, Pennsylvania 17105 which contains acceptable design standards and technical guidance. Water quality analyses shall be conducted by a laboratory certified under this chapter.

(1) *General requirements.* An application shall include:

* * * *

(ii) *Information describing new sources.* The Department may accept approval of an out-of-State source by the agency having jurisdiction over drinking water in that state if the supplier submits adequate proof of the approval and the agency's standards are at least as stringent as this chapter. Information describing sources shall include:

* * * *

(B) An evaluation of the quality of the raw water from each new source. This subparagraph does not apply when the new source is finished water obtained from an existing permitted community water system unless the Department provides written notice that an evaluation is required. The evaluation shall include analysis of the following:

* * * *

(VII) Gross Alpha (α), radium-226, radium-228, uranium and Gross Beta (β).

* * * *

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Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

STATE BOARD OF ACCOUNTANCY

[49 PA. CODE CH. 11]

CPA Examination

The State Board of Accountancy (Board) amends §§ 11.4, 11.16 and 11.18 (relating to fees; examination completion requirement; and character references for

examination) and deletes §§ 11.11—11.15, 11.17 and 11.19 to read as set forth in Annex A.

Statutory Authority

Section 3(a)(12) of the CPA Law (act) (63 P. S. § 9.3(a)(12)) authorizes the Board to promulgate regulations necessary to carry out the provisions of the act.

Omission of Proposed Rulemaking

Under authority of section 204 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. § 1204), known as the Commonwealth Documents Law (CDL), the Board has omitted procedures for proposed rulemaking set forth in sections 201 and 202 of the CDL (45 P. S. §§ 1201 and 1202). Proposed rulemaking has been omitted because: (1) examination candidates affected by the final-omitted rulemaking have been given actual notice of the Board's intention to adopt the amendments prior to the publication of this final-omitted rulemaking; and (2) public comment is unnecessary in that the final-omitted rulemaking adopts National standards regarding new completion requirements for the uniform certified public accountant (CPA) examination and deletes or clarifies other regulations relating to agency procedures and examination administration.

Overview of CPA Examination

Section 3.1(b) of the act (63 P. S. § 9.3a(b)) provides, consistent with earlier statutory provisions, that the CPA examination must be a written examination covering four broad subject areas, that the examination must be held at least twice each year and simultaneously in at least two counties in this Commonwealth and that the Board may use the uniform CPA examination adopted by the American Institute of Certified Public Accountants (AICPA).

All states have adopted the AICPA examination as the required examination for certification as a CPA. Through 2003, the examination was a four-part, paper-and-pencil examination that was administered over a 2-day period during May and November of each year. States had differing requirements regarding how many times an examination candidate could take the examination to achieve a passing score on all parts of the examination and the circumstances under which a candidate could receive "conditional credit" for passing one or more parts of the examination.

Effective April 5, 2004, the AICPA examination will be a four-part, computer-based examination with reorganized subject matter that will be administered at least 5 days a week during an examination window that consists of the first 2 months of each quarter of every year beginning April 5, 2004. All states are adopting uniform completion standards, jointly developed by the AICPA and the National Association of State Boards of Accountancy (NASBA), that require an examination candidate to pass all parts of the examination during a rolling 18-month period beginning on the date the candidate first passes one part of the examination. All states are also adopting special completion requirements for an examination candidate who, as of the launch date of the computer-based examination, retained conditional credit for passing parts of the paper-and-pencil examination. In addition, all states are eliminating or revising examination administration regulations that conflict with the more flexible arrangements permitted under the computer-based format.

The Board's test administration contractor, CPA Examination Services (CPAES), a unit of the NASBA, has

provided information about the new computer-based examination, including completion requirements, to all initial candidates for the computer-based examination as well as to all candidates with conditional credit from the paper-and-pencil examination for whom there is current address information.

Description of Final-Omitted Rulemaking

§ 11.4

Section 11.4 lists examination fees, license renewal fees and fees charged for Board services. The final-omitted rulemaking deletes the references to examination fees. Examination fees for the licensing boards within the Bureau of Professional and Occupational Affairs are established by contract between the Commonwealth and the independent testing organizations that process examination applications; develop, administer and grade the examinations; and report examination scores. The AICPA develops and grades the CPA examination. The NASBA reports examination scores and maintains a National examination database. CPAES processes examination applications. Effective April 5, 2004, Prometric, a division of the Thomson Corporation, will administer the examination at its computer-based test centers throughout the United States. The Board has no role in establishing or collecting any of the fees charged by the AICPA, the NASBA, CPAES and Prometric.

Upon implementation of the computer-based examination, the fees for taking all or individual parts of the examination will increase, with the fee for the complete (four-part) examination rising from \$135 to \$470. The fee for taking each part of the examination separately will range from \$100.50 to \$134.50, depending on the part taken. The fees for taking one part, two parts or three parts of the paper-and-pencil examination were \$67.50, \$90 and \$112.50, respectively. The application processing fee charged by CPAES for the computer-based examination will be \$75, which is \$30 more than the application processing fee charged for the paper-and-pencil examination. An examination candidate may obtain information about all examination-related fees directly from CPAES or through links on the Board's website.

§ 11.11

Section 11.11 provided that an application for examination must be submitted in a manner prescribed by the Board. The final-omitted rulemaking deletes this section. An examination candidate submits the examination application directly to CPAES, which reviews the application for conformity with examination eligibility requirements in the act and the Board's regulations. The application form and instructions are customized by CPAES to reflect the Commonwealth's eligibility requirements.

§ 11.12

Section 11.12 provided that the examination was administered in at least two counties in this Commonwealth as directed by the Board, and that current examination locations were shown on the examination application. The final-omitted rulemaking deletes this section. Section 3.1(b) of the act requires that the examination be administered in at least two counties. It is not necessary or practical for examination locations to be listed on the examination application. An examination candidate will be able to take the computer-based examination at any of the approximately 300 Prometric test centers throughout the United States, including 10 locations in this Commonwealth. A candidate will be able to obtain test center information directly from Prometric.

§ 11.13

Section 11.13 provided that the examination was administered in May and November, and that the examination dates were shown on the examination application. The final-omitted rulemaking deletes this section. The paper-and-pencil examination was administered over a 2-day period in May and November of each year. The computer-based examination will be administered at least 5 days a week during the first 2 months of each 3-month examination window that begins April 5, 2004. An examination candidate will be able to obtain information about examination dates directly from CPAES and Prometric.

§ 11.14

Section 11.14(a) required that an application from a new examination candidate must be received by February 15 for the May examination and by August 15 for the November examination. Section 11.14(b) required that an application from a reexamination candidate must be received by March 1 for the May examination and by September 1 for the November examination. Section 11.4(c) provided that the date of receipt would be determined by the postmark date.

The final-omitted rulemaking deletes this section. There is no need for application deadlines with the new computer-based examination. CPAES will accept an examination application at any time. An eligible candidate will receive a "notice to schedule" from CPAES. A candidate uses the "notice" to schedule an appointment with Prometric to take the examination at one of its test centers. Depending upon the availability of the date, time and location selected, a candidate will be able to schedule an appointment with as little as 6 days' notice to Prometric.

§ 11.15

Section 11.15 provided that an examination candidate in this Commonwealth with a permanent or temporary location in another state could have taken the examination in the other state if the state's accountancy licensing board allows it. The candidate had to obtain permission from the other state's accountancy licensing board before submitting an examination application and must indicate on the application the out-of-State location where the examination will be administered.

The final-omitted rulemaking deletes this section. An examination candidate in this Commonwealth who satisfies examination eligibility requirements will be able to take the computer-based examination at any Prometric test center in the United States without seeking prior approval of the accountancy licensing board of the state where the test center is located. Section 3.1(a)(1) of the act requires that an examination candidate in this Commonwealth must have a connection to this Commonwealth at the time the examination is initially taken. The connection is established through maintaining a residence in this Commonwealth, being a graduate of, or being currently enrolled in, a college or university in this Commonwealth or being employed in this Commonwealth under the supervision of a licensed CPA.

§ 11.16

Section 11.16(a) sets forth the examination completion requirements for a candidate who initially took the examination on or after November 1, 1990. A candidate must initially sit for all parts of the examination and must pass at least two parts to receive credit. A candidate who does not pass at least two parts must retake the entire examination. A candidate who passes at least two

parts may sit for one or both of the remaining parts at the candidate's discretion. A candidate who does not pass all parts within 5 years (that is, ten examination opportunities under the paper-and-pencil examination) must re-apply as a new candidate and retake the entire examination.

Section 11.16(b) sets forth the examination completion requirements for a candidate who initially took the examination before November 1, 1990. A candidate must initially sit for all parts of the examination and must continue to sit for all parts not passed. A candidate will receive credit for each part of the examination passed provided the candidate scored at least 20% on the parts not passed. A candidate is not subject to a deadline for passing all parts of the examination. The Board imposed stricter completion requirements in November 1990, to make the Commonwealth's requirements more comparable with those of other states.

Section 11.16(c) provided that a candidate who passed the accounting practice part of the examination before May 1994 will receive credit for passing two parts of the examination. This section reflects a restructuring, in May 1994, of the examination format from a five-part examination, including two parts on accounting practice, to a four-part examination, including one part on accounting practice.

The final-omitted rulemaking amends § 11.16 in its entirety by establishing new completion requirements for the computer-based examination based on model regulations developed by the AICPA and the NASBA.

Amended § 11.16(a) provides that a four-part, computer-based examination will replace the four-part, paper-and-pencil examination effective April 5, 2004. The examination will be administered during an examination window that consists of the first 2 months of each quarter of every year beginning April 5, 2004. An examination candidate may take the four parts of the examination individually or in combination and in any order. A candidate may take each unpassed part once during each examination window. A candidate will receive conditional credit for passing each part of the examination, without regard to the scores on the parts not passed.

Amended § 11.16(b) provides that an examination candidate without conditional credit from the paper-and-pencil examination must pass all four parts of the examination during a rolling 18-month period (comprising six examination windows) that begins from the date the candidate first passes one part of the examination. If a candidate does not pass all parts within the 18-month period, conditional credit for any part passed outside the 18-month period will expire and that part must be retaken. There is no deadline or time period within which a candidate must first pass a part of the examination.

Amended § 11.16(c) establishes the completion requirements for an examination candidate who initially took the examination in November 1999 or thereafter and who, as of April 5, 2004, had received conditional credit for passing at least two parts of the examination. Because of the 5-year completion requirement (comprising ten examination opportunities) for candidates who initially took the examination on or after November 1, 1990, there are currently no candidates with conditional credit who initially took the examination between November 1990 and May 1999. A candidate must pass the remaining parts of the examination within a 5-year period from the date of initial examination. Consistent with the model regulations developed by the AICPA and the NASBA, a candi-

date will have the same number of opportunities to complete the computer-based examination as would have been available under the paper-and-pencil examination. For example, a candidate who initially took the examination in November 2000 would have had seven examination opportunities before implementation of the computer-based examination (that is, November 2000, May 2001, November 2001, May 2002, November 2002, May 2003 and November 2003) and, therefore, will have three examination opportunities, or windows, remaining as of April 5, 2004.

The following chart illustrates the relevant completion requirements based on when a candidate initially took the examination:

<i>Initial Examination Date</i>	<i>Available Examination Windows</i>	<i>Examination Completion Date</i>
November 3-4, 1999	1	November 4, 2004
May 3-4, 2000	2	May 4, 2005
November 1-2, 2000	3	November 2, 2005
May 2-3, 2001	4	May 3, 2006
November 7-8, 2001	5	November 8, 2006
May 8-9, 2002	6	May 9, 2007
November 6-7, 2002	7	November 7, 2007
May 7-8, 2003	8	May 8, 2008
November 5-6, 2003	9	November 6, 2008

A candidate will be permitted to take a part of the examination during any examination window between April 5, 2004, and the appropriate examination deadline. If a candidate does not pass the remaining parts of the examination by the appropriate completion deadline, or after exhausting the remaining examination opportunities, whichever occurs first, conditional credit for parts of the examination passed before April 5, 2004, will expire, and a candidate will be subject to the regular completion requirements in § 11.16(b). In that case, a candidate will retain conditional credit for any part of the examination passed on or after April 5, 2004, that is timely to the regular completion requirements.

Section 11.16(d) establishes the completion requirement for an examination candidate who initially took the examination before November 1, 1990, and who, as of April 5, 2004, had received conditional credit for passing at least one part of the examination. During the last few administrations of the paper-and-pencil examination, there were only a small number of candidates with conditional credit who initially took the examination before November 1, 1990. Under the current regulation, these candidates are under no deadline to complete the remaining parts of the examination. The model regulations developed by the AICPA and the NASBA do not contemplate that a conditioned candidate should have an unlimited amount of time to pass the remaining parts of the examination. A completion deadline contributes to the validity of the examination as a useful measurement of technical knowledge and skill because it requires a candidate to demonstrate more or less contemporaneous mastery of the complex subject areas related to the practice of public accounting.

Section 11.16(d) requires a candidate who initially sat for the examination before November 1, 1990, to pass the remaining parts of the examination during an 18-month period that begins on the date when the candidate next sits for the examination on or after April 5, 2004. If a

candidate does not pass the remaining parts of the examination within the 18-month period, conditional credit for parts of the examination passed before April 5, 2004, will expire, and a candidate will be subject to the regular completion requirements in § 11.16(b). In that case, a candidate will retain conditional credit for any part of the examination passed on or after April 5, 2004, that is timely to the regular completion requirements.

The completion standard in § 11.16(d) allows a candidate with no prior completion deadline continued flexibility in determining when to resume the examination process, while requiring the candidate, upon retaking the examination, to pass the remaining parts within the same time frame as that required of a candidate who was not previously conditioned.

Section 11.16(e) provides that a candidate will retain conditional credit as of April 5, 2004, based on the following equivalency, as determined by the AICPA and the NASBA, between the four parts of the paper-and-pencil examination and the four parts of the computer-based examination:

<i>Paper and Pencil Examination</i>	<i>Computer-Based Examination</i>
Auditing (AUD)	Auditing and Attestation
Financial Accounting and Reporting (FARE) (previously Accounting Theory)	Financial Accounting and Reporting
Accounting and Reporting (ARE) (previously Accounting Practice)	Regulation
Business Law and Professional Responsibilities (LPR) (previously Business Law)	Business Environment and Concepts

The current completion requirements lack a provision allowing the Board to extend the term of conditional credit in cases of individual hardship. Section 11.16(f) provides, consistent with the model regulations developed by the AICPA and the NASBA, that the Board may extend the term of a candidate's conditional credit upon the candidate's showing that the conditional credit expired by reason of circumstances beyond the candidate's control.

§ 11.17

Section 11.17 provided that an examination candidate must submit the application required by § 11.11, together with the examination fee, to the Board's designee. The final-omitted rulemaking deletes this section. An examination candidate may obtain detailed information about the application procedures and examination fees directly from CPAES or through links on the Board's website.

§ 11.18

Section 11.18 requires a candidate for initial examination to submit character references from three nonrelatives, including a CPA, who are residents of this Commonwealth and who have been acquainted with the candidate for at least 3 years. A candidate must submit a statement of reference form that is completed by each character reference and must have each character reference sign the examination application in a space designated for that purpose. The requirements may be waived for good cause.

The Board requires an examination candidate to submit character references because section 3.1(a)(3) of the act requires a candidate to be of good moral character. The

character references are presumptive evidence of good moral character (although the presumption may be rebutted by evidence such as a candidate's criminal record). In recent years, the Board has not required an examination candidate to submit the separate statement of reference form with the examination application because it is redundant of the character references' signatures on the application and thus creates unnecessary paperwork. Accordingly, the final-omitted rulemaking amends § 11.18 to delete the requirement of a separate statement of reference form. The final-omitted rulemaking also clarifies that an examination candidate may submit as character references on the examination application individuals who, for good cause shown by the candidate, do not satisfy all the requirements in the regulation.

§ 11.19

Section 11.19 provided that, effective with the May 1980 examination, an examination candidate received scores for each part of the examination by mail, that the scores of all candidates were mailed on the same day and that no prior disclosure of the scores was made to any candidate.

The final-omitted rulemaking deletes this section. The examination is graded by the AICPA, examination scores are processed by the NASBA and mailed to examination candidates by CPAES. A candidate is apprised during the application process of the procedures for the reporting of examination scores. Under the computer-based examination, all candidates will initially receive their scores at the end of each 3-month examination window. It is anticipated candidates will eventually receive their scores within 2 weeks of the date they took the examination.

Effective Date

The final-omitted rulemaking will take effect upon publication in the *Pennsylvania Bulletin* and will be applicable during all relevant time frames associated with implementation of the computer-based CPA examination on April 5, 2004.

Fiscal Impact and Paperwork Requirements

The final-omitted rulemaking will not have a fiscal impact on, or create additional paperwork for, the regulated community, the general public or the Commonwealth and its political subdivisions.

Regulatory Review

Under section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)), on February 17, 2004, the Board submitted a copy of the final-omitted rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. A copy of this material is available to the public upon request.

On March 4, 2004, under authority of section 5.1(g)(1) of the Regulatory Review Act, the Board tolled the review period to clarify one of the amendments, and submitted revised amendments on that date to IRRC, the Committees and the Office of Attorney General.

Under section 5.1(g)(3) and (j.2) of the Regulatory Review Act, on March 16, 2004, the revised final-omitted rulemaking was approved by the House Committee and deemed approved by the Senate Committee. Under section 5.1(e) of the Regulatory Review Act, IRRC met on March 25, 2004, and approved the final-omitted rulemaking.

Additional Information

For additional information, submit inquiries to Dorna J. Thorpe, Administrator, State Board of Accountancy, P. O. Box 2649, Harrisburg, PA 17105-2649, (717) 783-1404, ST-ACCOUNTANCY@state.pa.us.

Findings

The Board finds that:

(1) Public notice of the Board's intention to amend its regulations under the procedures in sections 201 and 202 of the CDL has been omitted under section 204 of the CDL because examination candidates affected by the amendments adopted by this order have been given actual notice of the Board's intention to adopt the amendments prior to publication of this order and because public comment is unnecessary in that the amendments adopted by this order implement National standards regarding completion of the uniform CPA examination and delete or clarify other regulations relating to agency procedures and examination administration.

(2) The amendment of the Board's regulations in the manner provided in this order is necessary and appropriate for the administration of the act.

Order

The Board, acting under the act, orders that:

(a) The regulations of the Board, 49 Pa. Code Chapter 11, are amended by amending §§ 11.4, 11.16 and 11.18 and by deleting §§ 11.11—11.15, 11.17 and 11.19 to read as set forth in Annex A.

(b) The Board shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for approval as to legality as required by law.

(c) The Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

FRANCIS J. LISON, CPA,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 34 Pa.B. 1865 (April 3, 2004).)

Fiscal Note: Fiscal Note 16A-5510 remains valid for the final adoption of the subject regulations.

Annex A

**TITLE 49. PROFESSIONAL AND
VOCATIONAL STANDARDS**

PART I. DEPARTMENT OF STATE

**Subpart A. PROFESSIONAL AND
OCCUPATIONAL AFFAIRS**

**CHAPTER 11. STATE BOARD OF ACCOUNTANCY
GENERAL PROVISIONS**

§ 11.4. Fees.

Following is the schedule of fees charged by the Board:

Certification and initial licensure of certified public accountant	\$65
Initial licensure of public accounting firm	\$45
Temporary practice permit	\$25

Biennial renewal of license of certified public accountant, public accountant or public accounting firm	\$45
Reinstatement of inactive or expired license	\$35
Certification of scores	\$25
Verification of certification, registration or licensure	\$15
Initial approval of program sponsor or reapproval of previously approved program sponsor when application is submitted after April 30, 2001	\$145
Reapproval of previously approved program sponsor when application is submitted by April 30, 2001	\$120
Biennial renewal of approval of program sponsor beginning January 1, 2004	\$120

EXAMINATIONS

§ 11.11. (Reserved).

§ 11.12. (Reserved).

§ 11.13. (Reserved).

§ 11.14. (Reserved).

§ 11.15. (Reserved).

§ 11.16. Examination completion requirement.

(a) Effective April 5, 2004, the four-part, paper-and-pencil CPA examination will be replaced with a four-part, computer-based CPA examination. The examination will be administered during an examination window that consists of the first 2 months of each quarter of every year beginning April 5, 2004. An examination candidate may take the four parts of the examination individually or in combination, and in any order. A candidate may take each unpassed part of the examination once during each examination window. A candidate will receive conditional credit for passing each part of the examination, without regard to the scores on the parts not passed.

(b) Except as provided in subsections (c) and (d), an examination candidate shall pass all parts of the examination during a rolling 18-month period that begins on the date the candidate first passes one part of the examination. If the candidate does not pass all parts of the examination within the 18-month period, conditional credit for any part passed outside the 18-month period will expire, and the candidate shall retake that part of the examination.

(c) An examination candidate who, as of April 5, 2004, had received conditional credit for passing at least two parts of the examination since November 1999 shall pass the remaining parts of the examination within 5 years from the date the candidate initially took the examination.

(1) The candidate shall be permitted to take the remaining parts of the examination during the following number of examination windows, depending on when the candidate initially took the examination:

<i>Initial Examination Date</i>	<i>Available Examination Windows</i>	<i>Examination Completion Date</i>
November 3-4, 1999	1	November 4, 2004
May 3-4, 2000	2	May 4, 2005
November 1-2, 2000	3	November 2, 2005

<i>Initial Examination Date</i>	<i>Available Examination Windows</i>	<i>Examination Completion Date</i>
May 2-3, 2001	4	May 3, 2006
November 7-8, 2001	5	November 8, 2006
May 8-9, 2002	6	May 9, 2007
November 6-7, 2002	7	November 7, 2007
May 7-8, 2003	8	May 8, 2008
November 5-6, 2003	9	November 6, 2008

(2) The candidate may take a part of the examination during any examination window between April 5, 2004, and the appropriate completion deadline.

(3) If the candidate does not pass the remaining parts of the examination by the appropriate completion deadline, or after exhausting the remaining examination opportunities, whichever occurs first, conditional credit for the parts of the examination passed before April 5, 2004, will expire, and the candidate shall thereafter be subject to the requirements of subsection (b). In that case, the candidate will retain conditional credit for any part of the examination passed after April 5, 2004, that is timely to the requirements of subsection (b).

(d) An examination candidate who initially took the examination prior to November 1990 and who, as of April 5, 2004, had received conditional credit for passing at least one part of the examination shall pass the remaining parts of the examination within 18 months from the date the candidate next takes the examination on or after April 5, 2004. If the candidate does not pass the remaining parts of the examination within the 18-month period, conditional credit for the parts of the examination passed before April 5, 2004, will expire, and the candidate shall thereafter be subject to the requirements of subsection (b). In that case, the candidate will retain conditional credit for any part of the examination passed after April 5, 2004, that is timely to the requirements of subsection (b).

(e) For purposes of subsections (c) and (d), an examination candidate with conditional credit under the paper-

and-pencil examination will receive conditional credit under the computer-based examination based on the following equivalency between the four parts of the two examinations:

<i>Paper and Pencil Examination</i>	<i>Computer-Based Examination</i>
Auditing (AUD)	Auditing and Attestation
Financial Accounting and Reporting (FARE) (formerly Accounting Theory)	Financial Accounting and Reporting
Accounting and Reporting (ARE) (formerly Accounting Practice)	Regulation
Business Law and Professional Responsibilities (LPR) (formerly Business Law)	Business Environment and Concepts

(f) Notwithstanding the requirements of subsections (a)—(c), the Board may extend the term of a candidate's conditional credit upon the candidate's showing that the conditional credit expired by reason of circumstances beyond the candidate's control.

§ 11.17. (Reserved).

§ 11.18. Character references for examination.

An initial candidate for the CPA examination shall have three individuals, including one certified public accountant, sign the examination application as character references. The individuals selected as character references shall be residents of this Commonwealth who have known the candidate for at least 3 years and who are not related to the candidate. The candidate may submit with the examination application other individuals as character references if the candidate, for good cause shown, is unable to obtain the signatures of individuals who satisfy the requirements of this section.

§ 11.19. (Reserved).

[Pa.B. Doc. No. 04-553. Filed for public inspection April 2, 2004, 9:00 a.m.]

PROPOSED RULEMAKING

DEPARTMENT OF PUBLIC WELFARE

[55 PA. CODE CH. 285]

Payment for Burial

The Department of Public Welfare (Department), under the authority of sections 201(2) and 403(b) of the Public Welfare Code (62 P. S. §§ 201(2) and 403(b)), proposes to amend Chapter 285 (relating to payment for burial) to read as set forth in Annex A.

Purpose

The purpose of this proposed rulemaking is to codify the notice of rule change (NORC) published at 30 Pa.B. 2957 (June 10, 2000). The NORC increased the payment to funeral directors for burial services to \$750 for all eligible individuals. Prior to the NORC, payments were \$350 for an individual 10 years of age or older, \$250 for an individual under 10 years of age and \$85 for a stillborn child. The NORC also increased the maximum level of contributions made by an agency or individual from \$180 to \$750.

Additionally, the proposed rulemaking eliminates the separation of payments for goods and services and for interment and removes the requirement for a wooden outer case to provide a choice in determining the type of outer case.

Need for Proposed Rulemaking

The maximum allowance for burial services in Chapter 285 is inadequate and does not reflect the prevailing costs to provide basic burial services. The costs for transportation and preparation of the body, memorial services, gratuities to clergy and cemetery procedures have increased considerably in the last 25 years. Regulations governing maximum payment amounts for burial were adopted at 7 Pa.B. 2180 (August 5, 1977). The proposed rulemaking is necessary to update the regulations to provide a more adequate payment for basic burial services.

The proposed rulemaking to eliminate the separation of payment amounts and the requirement for a wooden outer case is necessary to allow an individual arranging the burial services and the funeral director more flexibility and choice in planning for goods and burial services.

Requirements

Following is a summary of specific proposed rulemaking:

The Department proposes to eliminate the restriction to provide a wooden outer case in § 285.3(c)(1)(ii) (relating to requirements). The Pennsylvania Funeral Director's Association indicates that a wooden outer case is not necessary and may be more expensive than an outer case of other materials, such as metal. Removing this restriction allows an individual arranging the burial services and the funeral director more flexibility and choice in planning for burial goods and services.

The Department proposes to amend § 285.3(d) to increase the maximum payment to funeral directors to \$750 for burial goods and services and interment for a deceased individual of any age who was receiving, or was eligible for and authorized to receive, cash assistance at

the time of death. Under current regulations, the maximum payment to funeral directors is \$350 for an individual 10 years of age or older, \$250 for an individual under 10 years of age and \$85 for a stillborn child. The Department also proposes to eliminate the separation of payment amounts for goods and services and for interment. The proposed rulemaking allows greater flexibility and choice in planning for burial goods and services.

The Department proposes to amend § 285.3(e)(1)(i) to increase the maximum level of contributions made by an agency or individual from \$180 to \$750. The Department also proposes to delete the requirements for interment charges, cave-proof containers and transportation since the payment for burial goods and services is now an unrestricted payment of \$750.

The Department proposes that contributions in excess of \$750 will reduce the Department's payment by the difference between \$750 and the value of the contribution. The proposed amendment to § 285.3(e)(1)(ii) is necessary for consistency in the allowable amounts for contributions as proposed in § 285.3(e)(1)(i).

Affected Individuals and Organizations

The proposed rulemaking affects an individual acting on behalf of a deceased individual of any age who was eligible and authorized for or was receiving cash assistance at the time of death. The proposed rulemaking allows an individual arranging the burial more flexibility and choice in planning for burial goods and services.

Funeral directors who are enrolled providers are the beneficiaries of increased burial payments. The proposed rulemaking allows increased payments to funeral directors that will more adequately cover the actual cost of burial goods and services.

Accomplishments and Benefits

The proposed rulemaking will benefit individuals acting on behalf of a deceased individual by allowing more flexibility and choice in the planning for burial goods and services.

The proposed rulemaking will benefit funeral directors by providing for increased payments that will more adequately cover the actual costs of burial goods and services. The proposed rulemaking will reduce the uncompensated costs for burial goods and services that are incurred by funeral directors.

Fiscal Impact

Public Sector

Commonwealth: The Department estimates an increase in annual expenditures of \$1.116 million. This amount represents the increase in payments to funeral directors for burial goods and services rendered at the new maximum rate of \$750.

Political Subdivisions: There will be no costs or savings for political subdivisions.

Private Sector

The proposed rulemaking will reduce the uncompensated costs for services that are incurred by funeral directors.

General Public: There will be no costs or savings for the general public.

Paperwork Requirements

This proposed rulemaking does not increase paperwork requirements.

Effective Date

The amendments to § 285.3(d) regarding the maximum payment amount for all eligible individuals and § 285.3(e) regarding resources that do not reduce payment are effective retroactive to July 3, 2000, to coincide with the effective date of the NORC.

The proposed amendments to § 285.3(c)(1)(ii) regarding standard outer case and § 285.3(d) regarding separation of payments for goods and services and for interment are effective upon publication in the *Pennsylvania Bulletin* as a final-form rulemaking.

Sunset Date

There is no sunset date. The Department will review compliance with the regulation through its quality control and corrective action review process, which is monitored by the Federal Department of Health and Human Services.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on March 23, 2004, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Health and Human Services and the Senate Committee on Public Health and Welfare. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department, the General Assembly and the Governor of comments, recommendations or objections raised.

Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking within 30 calendar days after the date of publication of this notice in the *Pennsylvania Bulletin* to the Department of Public Welfare, Office of Income Maintenance, Edward J. Zogby, Director, Bureau of Policy, Room 431 Health and Welfare Building, Harrisburg, PA 17120, (717) 787-4081. Comments received within 30 calendar days will be reviewed and considered in the preparation of the final-form rulemaking. Comments received after the 30-day comment period will be considered for subsequent revisions of the regulation.

Persons with a disability may use the AT&T Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

ESTELLE B. RICHMAN,
Secretary

Fiscal Note: 14-481. (1) General Fund; (2) Implementing Year 2003-04 is \$1,116,000; (3) 1st Succeeding Year 2004-05 is \$1,116,000; 2nd Succeeding Year 2005-06 is \$1,116,000; 3rd Succeeding Year 2006-07 is \$1,116,000; 4th Succeeding Year 2007-08 is \$1,116,000; 5th Succeeding Year 2008-09 is \$1,116,000; (4) 2002-03 Program—

\$668,832,000; 2001-02 Program—\$705,750,000; 2000-01 Program—\$668,586,000; (7) Medical Assistance—Outpatient; (8) recommends adoption. This regulatory action codifies existing policy. The payment rates for burial services have been in effect since the beginning of Fiscal Year 2000-01.

Annex A**TITLE 55. PUBLIC WELFARE****PART II. PUBLIC ASSISTANCE MANUAL****Subpart I. OTHER INCOME MAINTENANCE PROGRAMS****CHAPTER 285. PAYMENT FOR BURIAL****GENERAL PROVISIONS****§ 285.3. Requirements.**

* * * * *

(c) *Standards for burial.* The standards for burial are as follows:

(1) Payment of goods and services, and interment. The minimum requirements for goods and services, unless the remains are cremated, are as follows:

* * * * *

(ii) Standard [**wooden**] outer case, unless a cave-proof container is contributed, or unless an outer case is contrary to custom or cemetery regulations.

* * * * *

(d) *Department payment schedule.* The Department's total payment for burial [**, if there are no resources to reduce the payment, are as follows:**] is \$750 for goods and services and for interment charges. The Department will make a total payment not to exceed \$750 for a deceased individual of any age who was receiving or was eligible and authorized to receive cash assistance at the time of death.

[Client	Description	Amount (in dollars)
Adult or child 10 years of age	Good and services	280
	Interment, actual	
	charges	70
	but not over	350 maximum
Child under 10 years of age	Goods and services	180
	Interment, actual	
	charges	70
	but not over	250 maximum
Child born dead	Goods and services	50
	Interment, actual	
	charges	35
	but not over	85 maximum]

(e) *Resources that do not reduce Department payment.* If a person or agency makes small contributions, such as articles of clothing, the use of cars to carry the funeral party, newspaper advertising, flowers, religious services, and the like, they are not considered in determining the amount of the Department payment.

(1) *Resources for special burial costs.* Resources for special burial costs are as follows:

(i) The Department burial payments are based on a minimum standard for burial. To recognize certain circumstances that the minimum standard does not include, the following resources do not reduce the Department payment: contributions in money, goods or services by an

agency or person, including legally responsible relatives, [for clauses (A), (B) and (C),] up to a total of [\$180 for any or all of the following:] \$750.

[(A) The amount by which the actual charges for interment exceed \$70, or \$35 for a child born dead, in the cemetery chosen by the person requesting burial payment.

(B) The charge for a cave-proof container to meet the minimum standards of a cemetery that requires that type of container.

(C) The charge for transporting the remains for the number of miles over 15. This charge shall be no more than the prevailing local rate for hearse hire, or charge for rail transportation, whichever is used.]

(ii) If agencies or persons, or both, make total contributions of [over \$180 for subparagraph (i)(A), (B) and (C)] more than \$750, the difference between [\$180] \$750 and the value of the actual contributions reduces the Department payment.

* * * * *

[Pa.B. Doc. No. 04-554. Filed for public inspection April 2, 2004, 9:00 a.m.]

GAME COMMISSION

[58 PA. CODE CH. 139]

Seasons and Bag Limits

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its January 27, 2004, meeting, proposed the following amendment:

Amend § 139.4 (relating to seasons and bag limits for the license year) to provide updated seasons and bag limits for the 2004-2005 hunting license year.

This proposed rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the proposed rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

This proposed rulemaking was made public at the January 27, 2004, meeting of the Commission. Comments can be sent until April 16, 2004, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. Introduction

The Commission is proposing to amend § 139.4 to provide for updated seasons and bag limits for the 2004-2005 license year.

2. Purpose and Authority

The Commission is required to set hunting and furtaking seasons and bag limits on an annual basis. Although

the 2004-2005 seasons and daily season and possession limits are similar to those set in 2003-2004, the 2004-2005 seasons and bag limits have been amended to conform to current scientific data, harvest reports, field surveys and observations, staff and field input, as well as recommendations received from organized sporting groups, members of the agricultural community and others interested in the wildlife resources of this Commonwealth. One significant change for hunters next season will be the addition of an early elk season in September. This additional season will provide expanded hunting opportunities for elk hunters within this Commonwealth. As the next license year is approaching, the Commission is proposing to amend § 139.4 to provide updated seasons and bag limits for the 2004-2005 license year.

Section 322(c)(1) of the code (relating to powers and duties of commission) specifically empowers the Commission to "fix seasons, daily shooting or taking hours, and any modification thereof, and daily, season and possession limits for any species of game or wildlife." Section 2102(b)(1) of the code (relating to regulations) authorizes the Commission to "promulgate regulations relating to seasons and bag limits for hunting or furtaking. . . ." The amendments to this section are proposed under this authority.

3. Regulatory Requirements

The proposed seasons and bag limits establish when and where it is lawful to hunt and trap various game species and also place limits on the numbers that can be legally taken.

4. Persons Affected

Persons wishing to hunt and trap in this Commonwealth would be affected by the proposed seasons and bag limits.

5. Cost and Paperwork Requirements

The proposed seasons and bag limits will not result in any additional cost either to the Commission or to hunters and furtakers.

6. Effective Date

The effective dates are July 1, 2004, to June 30, 2005.

7. Contact Person

For further information regarding the proposed rulemaking, contact Michael A. Dubaich, Director, Bureau of Law Enforcement, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

VERNON R. ROSS,
Executive Director

Fiscal Note: 48-177. No fiscal impact; (8) recommends adoption.

(Editor's Note: As part of this proposed rulemaking, the Commission is proposing to delete the existing text of § 139.4, which currently appears in 58 Pa. Code pages 139-4—139-14, serial pages (297328)—(297338) and replace it with the following text, which is printed in regular type to enhance readability.)

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 139. SEASONS AND BAG LIMITS

§ 139.4. Seasons and bag limits for the license year.

(SEASONS AND BAG LIMITS TABLE)

2004-2005 OPEN HUNTING AND FURTAKING SEASONS, DAILY LIMIT, FIELD POSSESSION LIMIT AND SEASON LIMIT

OPEN SEASON INCLUDES FIRST AND LAST DATES LISTED

<i>Species</i>	<i>Limit</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Field Possession Limit After First Day</i>
Squirrels—(Combined species) Eligible Junior Hunters only, with or without the required license, when properly accompanied as required by law		Oct. 9	Oct. 15	6	12
Squirrels—(Combined species)		Oct. 16	Nov. 27	6	12
		and			
		Dec. 13	Dec. 23		
		and			
		Dec. 27	Feb. 5, 2005		
Ruffed Grouse—(Statewide)		Oct. 16	Nov. 27	2	4
		and			
		Dec. 13	Dec. 23		
		and			
		Dec. 27	Jan. 15, 2005		
Ruffed Grouse—There is no open season for taking ruffed grouse in that portion of State Game Lands No. 176 in Centre County which is posted "RESEARCH AREA—NO GROUSE HUNTING"					
Rabbits, Cottontail		Oct. 23	Nov. 27	4	8
		and			
		Dec. 13	Dec. 23		
		and			
		Dec. 27	Feb. 5, 2005		
Ringneck Pheasant—Male only in Wildlife Management Units 2A, 2B, 2C, 4B, 4C, 4E, 5A, 5B, 5C & 5D Eligible Junior Hunters only, with or without the required license, when properly accompanied as required by law		Oct. 9	Oct. 11	2	4
Ringneck Pheasant—Male or female combined in Wildlife Management Units 1A, 1B, 2D, 2E, 2F, 2G, 3A, 3B, 3C, 3D, 4A & 4D Eligible Junior Hunters only, with or without the required license, when properly accompanied as required by law		Oct. 9	Oct. 11	2	4
Ringneck Pheasant—Male only in Wildlife Management Units 2A, 2B, 2C, 4B, 4C, 4E, 5A, 5B, 5C & 5D		Oct. 23	Nov. 27	2	4

<i>Species</i>	<i>Limit</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Field Possession Limit After First Day</i>
Ringneck Pheasant—Male or female combined in Wildlife Management Units 1A, 1B, 2D, 2E, 2F, 2G, 3A, 3B, 3C, 3D, 4A & 4D		Oct. 23 and Dec. 13 and Dec. 27	Nov. 27 Dec. 23 Feb. 5, 2005	2	4
<i>Species</i>	<i>Limit</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Field Possession Limit After First Day</i>
Bobwhite Quail—The hunting and taking of bobwhite quail is permitted in all Wildlife Management Units except in Wildlife Management Units 4A, 4B, 5A, 5B, 5C & 5D where the season is closed.		Oct. 23	Nov. 27	4	8
Hares (Snowshoe Rabbits) or Varying Hares		Dec. 27	Jan. 1, 2005	1	2
Woodchucks (Groundhog)		No closed season except during the regular firearms deer seasons and until noon daily during the spring gobbler turkey season.			Unlimited
<i>Species</i>		<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Season Limit</i>
Turkey—Male or Female				1	1
Wildlife Management Units 1A, 2A & 2B (Shotgun, Bow & Arrow only)		Oct. 30	Nov. 20		
Wildlife Management Unit 1B (Shotgun, Bow & Arrow only)		Oct. 30	Nov. 13		
Wildlife Management Units 2C, 2E, 4A, 4B & 4D		Oct. 30	Nov. 13		
Wildlife Management Units 2D, 2F, 2G, 3A, 3B, 3C, 3D, 4C & 4E		Oct. 30	Nov. 20		
Wildlife Management Units 5A & 5B		Closed to fall turkey hunting			
Wildlife Management Unit 5C & 5D		Oct. 30	Nov. 6		
Turkey (Spring Gobbler) Statewide ⁵ Bearded Bird only		April 30, 2005	May 28, 2005	1	1
Turkey (Spring Gobbler) Statewide Youth Hunt ⁵ Bearded Bird only Eligible junior hunters only with the required license and when properly accompanied		April 23, 2005	April 23, 2005	1	1

MIGRATORY GAME BIRDS

Except as further restricted by this chapter, the seasons, bag limits, hunting hours and hunting regulations for migratory game birds shall conform to regulations adopted by the United States Secretary of the Interior under authority of the Migratory Bird Treaty Act (16 U.S.C.A. §§ 703—711) as published in the Federal Register on or about August 27 and September 28 of each year. Exceptions:

- (a) Hunting hours in § 141.4 (relating to hunting hours).
- (b) Nontoxic shot as approved by the Director of the United States Fish and Wildlife Service is required for use Statewide in hunting and taking of migratory waterfowl.
- (c) Subject to approval by the United States Fish and Wildlife Service, an early season for Canada geese will be held as defined in § 141.25.

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Field Possession Limit After First Day</i>
Crows (Hunting permitted on Friday, Saturday and Sunday only)	July 2	Nov. 28		Unlimited
Starlings and English Sparrows	Dec. 26	and April 3, 2005		Unlimited
	No closed season except during the regular firearms deer seasons and until noon daily during the spring gobbler turkey season			

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Field Possession Limit After First Day</i>
FALCONRY				
Squirrels—(Combined species)	Sept. 1	Mar. 31, 2005	6	12
Quail	Sept. 1	Mar. 31, 2005	4	8
Ruffed Grouse	Sept. 1	Mar. 31, 2005	2	4
Cottontail Rabbits	Sept. 1	Mar. 31, 2005	4	8
Snowshoe or Varying Hare	Sept. 1	Mar. 31, 2005	1	2
Ringneck Pheasant—Male and Female—(Combined)	Sept. 1	Mar. 31, 2005	2	4

Migratory Game Birds—Seasons and bag limits shall be in accordance with Federal regulations.

DEER

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Season Limit</i>
Deer, Antlered & Antlerless—(Statewide) ¹ (Archery—Bows and Arrows Only) Crossbows may be used in Wildlife Management Units 2B, 5C and 5D	Oct. 2	and Nov. 13	One antlered and an antlerless deer with each required antlerless license.
	Dec. 27	Jan. 15, 2005	
Deer, Regular Antlered & Antlerless—(Statewide) ¹	Nov. 29	Dec. 11	One antlered, and an antlerless deer with each required antlerless license.
Deer, Antlerless only—(Statewide) Only Junior and Senior License Holders, ² PGC Disabled Person Permit Holders (to use a vehicle as a blind), and Residents serving on active duty in the U. S. Armed Forces, or in the U. S. Coast Guard, with required antlerless license	Oct. 21	Oct. 23	An antlerless deer with each required antlerless license.
Deer, Antlerless only—(Statewide) (Muzzleloading season)	Oct. 16	Oct. 23	An antlerless deer with each required antlerless license.
Deer, Antlered or Antlerless—(Statewide) ¹ (Flintlock Muzzleloading season)	Dec. 27	Jan. 15, 2005	One antlered, or one antlerless—plus an additional antlerless deer with each required antlerless license.
Deer, Antlerless Wildlife Management Units 2B & 5C	Dec. 27	Jan. 15, 2005	An antlerless deer with each required antlerless license.
Deer, Antlerless Wildlife Management Unit 5D	Dec. 13	Dec. 28	An antlerless deer with each required antlerless license.
	Dec. 27	and Jan. 29, 2005	

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Season Limit</i>
Deer, Antlerless (Letterkenny Army Depot, Franklin County and New Cumberland Army Depot, York County and Fort Detrick, Raven Rock Site, Adams County)	Hunting is permitted on days established by the United States Department of the Army.		An antlerless deer with each required antlerless license.

BEAR

	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Season Limit</i>
Bear, any age—(Statewide) ⁴	Nov. 22	Nov. 24	1	1
Bear, any age ⁴ Wildlife Management Units 3D, 4C and that portion of 4E, East of Rt. 487 and that portion of 3B, East of 487 and South of Rt. 87 and that portion of 3C, East of I-81.	Nov. 29	Dec. 4	1	1

Portion of Wildlife Management Units 2G and 3B in Lycoming County that lie North of the West branch of the Susquehanna River from the Rt. 405 bridge, West to the Rt. 220 bridge, East of Rt. 220 to Rt. 44 and East of Rt. 44 to Rt. 973, South of Rt. 973 to Rt. 87, West of Rt. 87 to Rt. 864, South of Rt. 864 to Rt. 220 and West of Rt. 220 to Rt. 405 and West of Rt. 405 to the West Branch of the Susquehanna River.

ELK

	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Season Limit</i>
Elk, Antlered & Antlerless ⁶ (With each required license)	Sept. 20	Sept. 25	1	1
Elk, Antlered & Antlerless ⁶ (With each required license)	Nov. 8	Nov. 13	1	1

FURTAKING—TRAPPING

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Season Limit</i>
Minks and Muskrats—(Statewide)	Nov. 20	Jan. 8, 2005	Unlimited	
Beaver—(Statewide)	Dec. 26	Mar. 31, 2005		
Wildlife Management Units 1A, 1B, 2F & 2G (Combined)			20	20
Wildlife Management Unit 3A, 3B, 3C & 3D (Combined)			20	40
Wildlife Management Units 2A, 2B, 2C, 2D, 2E, 4A, 4B, 4C, 4D & 4E (Combined)			10	10
Wildlife Management Units 5A, 5B, 5C & 5D (Combined)			6	6
Coyotes, Foxes, Opossums, Raccoons, Skunks, Weasels—(Statewide)	Oct. 17	Feb. 19, 2005	Unlimited	
Bobcat ³ Wildlife Management Units 2C, 2E, 2F, 2G, 3A, 3B, 3C & 3D	Oct. 17	Feb. 19, 2005	1	1

FURTAKING—HUNTING

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Season Limit</i>
Coyotes—(Statewide)	No closed season. Coyotes may be taken from the first day to the last day inclusive of any deer or bear season only by persons who possess a valid furtaker's license and wear 250 square inches of daylight fluorescent orange-colored material in a 360 degree arc from one hour before sunrise to one hour after sunset or by persons lawfully engaged in hunting deer or bear and have a valid tag, or during the spring gobbler turkey season by persons who have a valid spring turkey tag and meet fluorescent orange and shot size requirements.		Unlimited	
Opossums, Skunks, Weasels—(Statewide)	No closed season. These species may not be hunted prior to noon during the spring gobbler turkey season.			
Raccoons and Foxes—(Statewide)	Oct. 16	Feb. 19, 2005	Unlimited	
Bobcat ³ Wildlife Management Units 2C, 2E, 2F, 2G, 3A, 3B, 3C & 3D	Oct. 16	Feb. 19, 2005	1	1

No open seasons on other wild birds or wild mammals.

¹Only one antlered deer (buck) may be taken during the hunting license year.

²Includes persons who have reached or will reach their 65th birthday in the year of the application for the license and hold a valid adult license or qualify for license and fee exemptions under section 2706 of the act (relating to resident license and fee exemptions).

³Bobcat may only be taken by furtakers in possession of a Bobcat Hunting-Trapping Permit.

⁴Only one bear may be taken during the hunting license year.

⁵Only one spring gobbler may be taken during the hunting license year.

⁶Only one elk may be taken during the hunting license year.

[Pa.B. Doc. No. 04-555. Filed for public inspection April 2, 2004, 9:00 a.m.]

[58 PA. CODE CH. 141] Hunting and Trapping

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its January 27, 2004, meeting, proposed the following amendments:

Amend §§ 141.41 and 141.43 (relating to general; and deer) to permit all hunters to hunt and take deer with a crossbow during any firearms deer season and also permit hunters within Wildlife Management Units (WMU) 2B, 5C and 5D to hunt and take deer with a crossbow during any deer season.

The proposed rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the proposed rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

This proposed rulemaking was made public at the January 27, 2004, meeting of the Commission. Comments can be sent until April 16, 2004, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. Introduction

The Commission is proposing to amend §§ 141.41 and 141.43 to permit all hunters to hunt and take deer with a crossbow during any firearms deer season and also permit hunters within WMUs 2B, 5C and 5D to hunt and take deer with a crossbow during any deer season.

2. Purpose and Authority

Currently, the use of a crossbow for deer hunting purposes is permitted, but only in limited circumstances. Most hunters are permitted to hunt and take deer with a crossbow only during the regular firearms deer season. Disabled hunters possessing a valid disabled persons crossbow permit are additionally permitted to hunt and take deer with a crossbow during archery season. The proposed rulemaking will provide expanded deer hunting opportunities for all hunters within this Commonwealth by permitting the use of crossbows to hunt and take deer during any firearms season. In addition, the proposed rulemaking will allow even greater hunting opportunities in WMUs 2B, 5C and 5D by permitting hunters within those units to hunt and take deer with a crossbow during any deer season. The purpose of the increased allowance in these WMUs is to offset the increasing difficulty for

hunters to safely hunt deer using firearms in these urban areas with high population centers.

Section 2102(d) of the code (relating to regulations) authorizes the Commission to "promulgate regulations stipulating . . . the type of firearms and ammunition and other devices which may be used, the manner in which and the location where the devices may be used, the species the devices may be used for and the season when the devices may be used." Section 2102(a) of the code provides that "the Commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat, permitting or prohibiting hunting or furtaking, the ways, manner, methods and means of hunting or furtaking, and the health and safety of persons who hunt or take wildlife or may be in the vicinity of persons who hunt or take game or wildlife in this Commonwealth." These provisions provide the statutory basis for the proposed rulemaking.

3. *Regulatory Requirements*

The proposed rulemaking will permit hunters within WMUs 2B, 5C and 5D to hunt and take deer with a crossbow during any deer season. For all other WMUs, the proposed rulemaking will make it unlawful for hunters to hunt and take deer with a crossbow during any deer seasons other than any of the firearms seasons.

4. *Persons Affected*

Persons who wish to hunt deer with a crossbow will be affected by the proposed rulemaking.

5. *Cost and Paperwork Requirements*

The proposed rulemaking should not result in additional cost or paperwork.

6. *Effective Date*

The proposed rulemaking will be effective on final-form publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

7. *Contact Person*

For further information regarding the proposed rulemaking, contact Michael A. Dubaich, Director, Bureau of Law Enforcement, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

VERNON R. ROSS,
Executive Director

Fiscal Note: 48-178. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 141. HUNTING AND TRAPPING

Subchapter C. BIG GAME

§ 141.41. General.

(a) *Permitted acts.* It is lawful to take:

* * * * *

(2) Deer during **[the regular firearms deer season]** any firearms season for deer with a crossbow with a draw weight of not less than 125 pounds nor more than 200 pounds.

(3) Deer with a crossbow with a draw weight of not less than 125 pounds nor more than 200 pounds in Wildlife Management Units 2B, 5C and 5D.

* * * * *

§ 141.43. Deer.

(a) *Archery season.* It is unlawful while hunting deer with a bow and arrow or crossbow during the archery season to:

* * * * *

(5) **[Hunt]** Except in Wildlife Management Units 2B, 5C and 5D, hunt or take deer with a crossbow without a valid disabled persons crossbow permit.

* * * * *

(d) *Prohibitions.* While hunting deer during the flintlock muzzleloading season it is unlawful to:

* * * * *

(4) **[Hunt]** Unless otherwise provided in this chapter, hunt, take or attempt to take deer through the use of a device not specifically described in subsection (b) or (c).

* * * * *

[Pa.B. Doc. No. 04-556. Filed for public inspection April 2, 2004, 9:00 a.m.]

[58 PA. CODE CH. 143]

Hunting and Furtaker Licenses

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its January 27, 2004, meeting, proposed the following rulemaking:

Amend § 143.48 (relating to first-come-first-served license issuance) to remove the reference to § 143.45(g) (relating to completing and submitting applications), which will be eliminated; amend § 143.53 (relating to reapplication) to permit an applicant to receive a replacement license from any county treasurer; and amend §§ 143.55 and 143.56 (relating to unlawful acts; and penalties) to permit the revalidation of a license by submission of the required payment and fees despite prior submission of a nonnegotiable check.

The proposed rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the proposed rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

This proposed rulemaking was made public at the January 27, 2004, meeting of the Commission. Comments can be sent until April 16, 2004, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. *Introduction*

The Commission is proposing to amend § 143.48 to remove the reference to § 143.45(g), which will be eliminated, § 143.53 to permit an applicant to receive a replacement license from any county treasurer and §§ 143.55 and 143.56 to permit the revalidation of a license by submission of the required payment and fees despite prior submission of a nonnegotiable check.

2. *Purpose and Authority*

Currently, § 143.48(b) makes reference to § 143.45(g). Section 143.45(g) provides the requirement that an applicant for an antlerless deer license or licenses identify the number of applications enclosed in the application envelope by circling the appropriate preprinted number on the outside of the envelope. This requirement will be eliminated, therefore the Commission is proposing to delete the reference to § 143.45(g) in § 143.48(b) to maintain clarity and eliminate "dead-end references" in the regulations.

Current regulations require that replacement license applicants apply to a county treasurer within the wildlife management unit where the original license was issued. The Commission is proposing to amend § 143.53 to allow applicants to apply to any current treasurer for a replacement license. This amendment is intended to make the reapplication process more convenient for hunters and allow county treasurers to provide better service for their constituents.

Current regulations stipulate that a nonnegotiable check that is submitted as payment for a license automatically voids the license and subjects it to confiscation by an officer of the Commission. The Commission is proposing to amend §§ 143.55 and 143.56 to the extent that a license will not be automatically and permanently voided when it is paid for with a nonnegotiable check. Rather, the Commission will permit a license holder to revalidate the license by submitting the required payment and fees charged for processing the nonnegotiable check to the county treasurer.

Section 2722(g)(2) of the code (relating to authorized license-issuing agents) directs the Commission to adopt regulations for the administration, control and performance of activities related to license issuing. Section 2102(a) of the code (relating to regulations) provides that "the Commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat, permitting or prohibiting hunting or furtaking, the ways, manner, methods and means of hunting or furtaking, and the health and safety of persons who hunt or take wildlife or may be in the vicinity of persons who hunt or take game or wildlife in this Commonwealth." The amendments to §§ 143.48, 143.53, 143.55 and 143.56 are proposed under this authority.

3. Regulatory Requirements

The proposed rulemaking will remove reference to § 143.45(g) in § 143.48. The amendments to § 143.53 will permit applicants to receive a replacement license from any county treasurer rather than just the original license issuing county treasurer. The amendments to §§ 143.55 and 143.56 will also permit the revalidation of a license by submission of the required payment and fees despite prior submission of a nonnegotiable check.

4. Persons Affected

Persons applying for antlerless deer licenses or replacement licenses and persons wishing to revalidate a license voided by the submission of a nonnegotiable check will be affected by the proposed rulemaking.

5. Cost and Paperwork Requirements

The proposed rulemaking should not result in additional cost or paperwork.

6. Effective Date

The proposed rulemaking will be effective on final-form publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

7. Contact Person

For further information regarding the proposed rulemaking, contact Michael A. Dubaich, Director, Bureau of Law Enforcement, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

VERNON R. ROSS,
Executive Director

Fiscal Note: 48-180. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 143. HUNTING AND FURTAKER LICENSES

Subchapter C. ANTLERLESS DEER LICENSES

§ 143.48. First-come-first-served license issuance.

* * * * *

(b) If the conditions in § 143.45(b), (c)[,] and (e) [and (g)] are met, it constitutes initial acceptance, and the applications will be forwarded to a county treasurer within the wildlife management unit for issuance of the appropriate number of licenses. If the conditions are not met, the enclosed applications will be rejected and returned to the sender as soon as possible.

* * * * *

§ 143.53. Reapplication.

* * * * *

(b) A person who was issued a license that was subsequently lost in the United States mail and never received by the licensee may, upon submitting an affidavit stating this fact, receive a replacement license from [a county treasurer within the wildlife management unit for which the license was intended] any county treasurer. There will be no additional cost for this license. Prior to issuing a replacement license, county treasurers shall first verify through their records or through communication with another county treasurer that the applicant was issued the original license.

§ 143.55. Unlawful acts.

It is unlawful:

* * * * *

[(6) For a person to submit a nonnegotiable check or sight draft as payment for a license issued under this chapter.]

§ 143.56. Penalties.

* * * * *

[(b) Submitting a nonnegotiable check as payment for a license is a violation of this chapter and section 502 of the act (relating to collection fee for uncollectible checks) and renders the license issued under this chapter invalid and subject to confiscation by an officer of the Commission. A county treasurer may be reimbursed for fees charged for

processing the nonnegotiable check. The fees shall be paid from the \$25 collected under section 502 of the act.

(c)] Hunting antlerless deer or killing an antlerless deer with an invalid license constitutes hunting or killing deer without a license.

[Pa.B. Doc. No. 04-557. Filed for public inspection April 2, 2004, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

[52 PA. CODE CH. 63]

[L-00030163]

Changing Local Service Providers

The Pennsylvania Public Utility Commission, on October 2, 2003, adopted a proposed rulemaking order which sets forth regulations establishing an orderly process for customer migration between local service providers within the telecommunications industry. The contact persons are Louise Fink Smith, Law Bureau, (717) 787-8866 and M. J. (Holly) Frymoyer, Bureau of Consumer Services, (717) 783-1628.

Executive Summary

The advent of competition in the local telephone market in Pennsylvania has created situations that the Commission's current regulations do not address. Specifically, consumers have encountered a variety of problems when they attempt to change local service providers (LSPs) in the new competitive market. In April 2002, recognizing the need for both short-term and long-run solutions to problems associated with migrating local phone service, the Commission approved Interim Guidelines addressing the issues raised by the changes. Later in 2002, the Commission held collaborative sessions that involved telecommunications carriers and other interested parties in discussions of the issues. Two of the collaborative groups focused on issues related to changing local service providers and quality of service. The participants in these two groups agreed to combine the issues into one rulemaking. The collaborative participants addressed proposals for regulations and proposed solutions to the problems created by the changing telecommunications marketplace.

By Order entered on October 3, 2003 at Docket No. L-00030163, the Commission adopted a Proposed Rulemaking Order to amend 52 Pa. Code Chapter 63, consistent with the order and recommendations of the collaborative participants, the Bureau of Consumer Services and the Law Bureau. The intent of the proposed rulemaking is to promulgate a regulation to establish general rules, procedures, and standards to ensure that customers can migrate from one LSP to another without confusion, delay, or interruption of their basic telephone service.

The proposed regulation applies to all LSPs and network service providers (NSPs) operating in Pennsylvania. It does not apply to mass migrations of customers brought about by the selling or transferring of a customer base of one LSP to another. It does not apply to a LSP that has properly proceeded with the abandonment of service to its customer base and does not apply to Digital Subscriber Line migration or to line sharing/splitting arrangements.

The proposed regulation recognizes the right of a telephone customer to migrate from one LSP to another and addresses the responsibilities of old LSPs, new LSPs and NSPs throughout the migration process. The old and new LSPs are to work together to minimize or avoid problems associated with migrating a customer's account. The Commission will establish an industry work group to develop and update migration guidelines that LSPs and NSPs are to follow to facilitate migration of a customer's local telephone service.

Prospective new LSPs will need verified authorization from a customer to obtain the customer's service information from the current LSP. The current LSP is to provide specific customer service information within a specified timeframe to the prospective new LSP when the customer has indicated a desire to switch LSPs. The prospective new LSP may not process a change in LSPs for a customer who has a local service provider freeze in effect. All LSPs are to provide various methods for customers to lift or remove local service provider freezes.

An old LSP may not refuse to port a customer's telephone number to a new LSP unless the old LSP has terminated or discontinues service for that number prior to the migration request. In addition, an old LSP must issue a final bill within 42 days to any customer who has requested to switch service providers and the old LSP must stop billing the customer for any recurring charges as of the date of the change to the new LSP.

LSPs and NSPs are to follow specific procedures when pre-existing service at a location prevents a new LSP from reusing the existing telephone facilities to serve a new customer. If the problem cannot be resolved, the new LSP is to inform the consumer of various options for obtaining service including paying for the installation of new facilities.

In the event of a migration dispute between LSPs or between a LSP and a NSP, the Commission will make available a non-adversarial, expedited dispute process within the Commission to address the dispute and suggest a resolution.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on March 18, 2004, the Commission submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House and Senate Committees. In addition to submitting the proposed rulemaking, the Commission provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Commission. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, if IRRC has objections to any portion of the proposed rulemaking, it will notify the Department within 30 days of the public comment period. The notification shall specify the regulatory review criteria that have not met by the portion of the proposed rulemaking to which an objection is made. The Regulatory Review Act specifies detailed procedures for review, prior to final publication in the amendments, by the Commission, the General Assembly and the Governor of objections raised.

Public Meeting held
October 2, 2003

Commissioners Present: Terrance J. Fitzpatrick, Chairperson; Robert K. Bloom, Vice Chairperson; Kim Pizingrilli; Glen R. Thomas; Wendell F. Holland, Abstaining

Proposed Rulemaking—Changing Local Service Providers; L-00030163

Proposed Rulemaking

By the Commission:

This proposed rulemaking order is intended to promulgate regulations to establish an orderly process for customer migration between local service providers (LSPs).¹ The proposed regulations, contemplating codification as a new subchapter in 52 Pa. Code Chapter 63, are attached as Annex A.

Procedural Background

Since the advent of competitive local exchange carriers (CLECs) in the Pennsylvania market, there have been numerous situations when the Commission's regulations did not address circumstances involving more than one LSP. Those regulations were developed in large measure prior to the emergence of multiple LSPs and network service providers (NSPs)² in the local service market. Recognizing the need for both short-term and long-run solutions, this Commission decided to seek voluntary industry compliance with interim guidelines in the short-term and to develop revised regulations for the long-run.

At Public Meeting on December 4, 2001, we issued four tentative orders for public comment regarding interim guidelines for jurisdictional LSPs. These tentative orders were designed to establish interim guidelines for Changing LSPs (M-00011582, base folder), Quality of Service (QoS) (F0002),³ Customer Information (F0003), and Termination and Abandonment of Local Service (F0004), pending the approval of final regulations. After a public comment period, we entered final orders at those dockets on April 23, 2002, approving Interim Guidelines.

As the first step in the rulemaking process, we issued notices on December 4, 2001, announcing the commencement of four corresponding local telephone competition collaboratives to develop proposals for regulations to address the four areas of concern. Notice was sent to all telecommunications carriers and other interested entities in the Commonwealth and published in the *Pennsylvania Bulletin*. The collaborative meetings began in June 2002.⁴ Active parties included Allegiance Telecom of PA, Inc.; AT&T Communications of Pennsylvania, Inc. (AT&T); ATX—CoreComm (ATX); Choice One Communications of PA, Inc. (Choice One); CTSI/Commonwealth Telephone; Denver & Ephrata Telephone & Telegraph (D & E); MCIWorldcom Network Services, Inc. (MCI); Metropolitan Telecommunications (MetTel); North Pittsburgh Telephone Company (NPT); Sprint/United Telephone Com-

pany; Verizon Pennsylvania, Inc. (Verizon PA) and Verizon North, Inc.; XO Communications (XO); Z-tel Communications (Z-tel); the Pennsylvania Telephone Association (PTA); the Pennsylvania Cable Television Association (PCTA); the Public Utility Law Project (PULP); NeuStar; the Office of Consumer Advocate (OCA); and the Office of Small Business Advocate (OSBA). Staff from the Commission's Bureau of Consumer Services (BCS), Bureau of Fixed Utility Services (FUS), Law Bureau, Office of Trial Staff (OTS), Office of Administrative Law Judge (OALJ), and Office of Communications also participated.

Parties were invited to make presentations and voice concerns at a number of collaborative sessions and to submit written comments. The parties were advised that the Commission did not want the provisions of the interim guidelines to be viewed as necessary elements for the proposed rulemakings. The parties were free to use what they wanted from the interim guidelines, but they were also free to propose regulations and topics not covered by the interim guidelines. The Commission invited the parties to submit proposed regulatory language for consideration. Noting this latitude, the parties, nonetheless, preferred to use the interim guidelines as a starting point for the proposed regulations.

Most of the parties participated in more than one collaborative; many participated in all. During the multi-collaborative process, it became apparent that several of the topics under consideration could have been addressed in more than one of the collaboratives. Since there was also substantial overlap in terms of issues and proposals in the Changing LSPs collaborative (Docket No. M-00011583) and the QoS collaborative (Docket No. M-00011585), these two collaboratives were combined to result in the instant rulemaking. It was further agreed that the various customer information issues should be consolidated with and addressed by the Customer Information collaborative (Docket No. M-00011584) and resulting rulemaking. The parties also agreed that transfers of customer base issues should be consolidated with and addressed by the Abandonment collaborative (Docket No. M-00011586) and resulting rulemaking.

Discussion

It should be noted that while every position espoused by each of the parties, whether in comments or in public collaborative sessions, may not be expressly detailed herein, each submittal was duly considered in the preparation of this Order and Annex A. Any position not expressly adopted herein is rejected without prejudice to future consideration as the parties request or the Commission deems appropriate.

Subchapter M. CHANGING LOCAL SERVICE PROVIDERS

§ 63.191. Statement of purpose and policy.

These proposed regulations have been drafted to recognize significant changes in the provision of local telephone service and the emergence of multiple LSPs in the local service market.

§ 63.192. Definitions.

Positions of the Parties

(1) *Local Service:* One aspect of the definition of "Local Service" caused concern when it was determined that the Commission's historical expectation is that LSPs provide two free directory assistance calls per month for residential service. One LSP noted that it provides only one free directory assistance call per month, pursuant to tariff provisions. Other LSPs had no provisions for free directory assistance calls.

¹ As used throughout this proceeding, "local service provider" or "LSP" refers to a company, such as a local exchange carrier, that provides local service by resale, by unbundled network elements (with or without platform) or through its own facilities, or by a combination of these methods.

² As used throughout this proceeding, "network service provider" or "NSP" refers to a service provider that interacts with LSPs and provides some or all of the facilities and equipment components needed to make up a customer's telecommunications service. A NSP may also be called an underlying carrier and is generally invisible to customers. A NSP may also operate as a LSP.

³ "QoS" as used in M-00011582, F0002, and M-00011585 refers to how transactions between service providers are structured rather than to measures of the quantity or character of services provided to wholesale or retail customers. A proceeding is pending at Docket No. P-00021985 to address quality of service in terms of the measures or standards of services provided to customers as mandated by other provisions of 52 Pa. Code Chapter 63.

⁴ During 2002, the Changing LSPs/QoS collaboratives met on June 3, July 15, and August 8.

(2) *Local Service Provider*: The PCTA also raised concerns that "LSP" might be applied to its members in an attempt to subject them to the jurisdiction of the Commission.

Disposition

(1) *Local Service*: The requirement of two free directory assistance calls per month for residential accounts is long standing in the Commonwealth. We see no basis or justification for changing the requirement in this proceeding. Non-conforming LSPs should bring their existing tariffs and practices into conformity with these existing requirements.

(2) *Local Service Provider*: Cable companies operating as cable companies are, per se, not subject to Commission jurisdiction. Entities that provide local exchange service do, however, come under the Commission's jurisdiction for the provision of local exchange service. The fact that such an entity is also a cable television company, or engaged in some other non-jurisdictional enterprise, does not insulate it from Commission regulation of those activities which are jurisdictional activities.

MIGRATION

§ 63.201. *General migration standards.*

§ 63.202. *Migration responsibilities of new LSPs (NLSPs) and NSPs.*

Migration⁵ is the movement of a customer from one LSP to another LSP at the same service location, frequently reusing the same facilities as were providing the old service to provide the new service. This requires coordination between service providers to ensure that there are no unplanned or unexpected out-of-service conditions.

Positions of the Parties

The parties generally agreed that the regulations should apply to all LSPs and NSPs and to all customers,⁶ but there was also a general consensus that there are situations or services when there should be exceptions. The parties asserted that voice grade services should be the primary focus of the proposed regulations, but agreed that the proposed regulations could be applied to products and services other than basic service. Further agreement reflected that application of the proposed regulations to digital subscriber lines (DSL)⁷ should be deferred.

The group discussed how timeframes for migrating lines could depend on the numbers of lines, the availability of facilities, or the number of service providers involved. The necessity of tying intervals to the quantity and types of service being ordered was recognized as being a matter best left to the migration guidelines.⁸ Finally, the vast majority of the parties agreed that the holding of facilities may not be used as a collection tool or to retain a customer. PTA reserved judgment for its further consideration.

Disposition

We agree that the proposed regulations should apply to all LSPs, all NSPs, and all customers. A particular listing of products and services risks being outdated before it can

be adopted. It is our intention to look to the purpose of the communication in determining the applicability of the regulations rather than to try to itemize a specific listing of included or excluded products and services. We also agree to defer application of the proposed regulations to DSL, but recognize that the parties may, however, continue to explore application of the migration guidelines to DSL.

We agree that timelines should be addressed in the migration guidelines rather than codified. We also agree that an old LSP (OLSP) may not refuse to allow reuse of otherwise-available facilities on the basis of termination or discontinuation of service.

§ 63.203(a). *Migration guidelines.*

Positions of the Parties

The parties want specificity and marketplace compliance in terms of processes and procedures for coordination of migrations and communications among themselves. Verizon PA suggested that the Commission adapt New York's migration guidelines for operation in Pennsylvania. Some parties expressed concerns about using the New York migration guidelines as a template for Pennsylvania without certain significant revisions. The New York market is different in a number of aspects from the Pennsylvania market. For example, New York has provisions for a provider of last resort (PLR). Further, the parties noted that the regulatory framework in New York allows New York regulations to give effect to such a document setting out business rules and to obligate service providers to abide by it while allowing it to be changed over time without rulemakings.

A significant discussion arose regarding how the concept of migration guidelines could be formulated and used in Pennsylvania as a document subject to frequent changes yet still be binding on the parties and new market entrants. Noting that some processes and procedures would need continual updating or revisions, some parties suggested that items covered by regulation should not be included in the migration guidelines. In this context, they were concerned that codified processes and procedures might not be sufficiently responsive to changing conditions if a rulemaking was required each time business rule changes were contemplated.

Interested parties developed draft migration guidelines for Pennsylvania, based on the New York model. All parties had the option of participating in the process to develop the draft migration guidelines for Pennsylvania. Recognizing that working from a common format could be beneficial to service providers and customers, the parties agreed to explore the possibility of using the draft migration guidelines as a reference for formulating business rules for Pennsylvania.

The PTA is, however, not yet ready to endorse migration guidelines on behalf of the rural and small incumbent local exchange carriers (ILECs), especially those with continuing Section 251(f)(1) exemptions or Section 251(f)(2) suspensions.⁹

Disposition

The parties wish to have a set of obligatory business rules for local service transactions between service providers. We believe that establishing a relatively uniform set of procedures for local service transactions between service providers, even among competitive service providers,

⁵ Relocation, on the other hand, involves a change in location and typically does not involve reuse of the same facilities. When a relocating customer is also changing LSPs, these proposed regulations may provide guidance for the coordination of the move and change in LSPs to ensure there are no unplanned or unexpected out-of-service conditions.

⁶ The parties agreed that the definition of "small business" would be addressed by the customer information collaborative at M-00011584.

⁷ A dedicated, high-speed always-on service, frequently used in the context of "aDSL" or "xDSL."

⁸ See discussion of migration guidelines at § 63.203(a), below.

⁹ Of the Telecommunications Act of 1996, as codified at 47 U.S.C. §§ 251(f)(1) and 251(f)(2).

is appropriate.¹⁰ We shall designate that these business rules, presently and as they may be modified by consensus from time to time, shall be applicable to all local service transactions between service providers. Accordingly, the proposed regulations make provisions for the use of migration guidelines to establish the business rules governing local service transactions between the service providers.

The cooperative development of migration guidelines for Pennsylvania is already underway.¹¹ These proposed regulations are not intended to restrict service providers from agreeing to workable processes and procedures as may be reached through an open, industry-wide, consensus process under the regulatory umbrella of Commission oversight. While the migration guidelines will supplement the proposed regulations, adoption of the migration guidelines need not be delayed until this rulemaking concludes. We shall post the migration guidelines on our website to ensure that they are available to all interested entities.

The PTA raises a valid point about the applicability of the migration guidelines to some of its members. We recognize that the rural and small ILECs in the Commonwealth are not as far along in adapting to competition as are the larger ILECs. Many of the requirements of the migration guidelines will require a certain level of experience with competition which the rural and small ILECs do not yet have. Under the auspices of an industry work group,¹² the migration guidelines can be tailored for the rural and small ILECs as competition comes into their service territories.

§ 63.203(b). & § 63.203(c). Industry work group.

Positions of the Parties

The parties requested a mechanism to ensure that service providers would be able to participate in updates and revisions to the migration guidelines. The parties felt that there should also be a process for having the Commission approve or adopt the consensus provisions and resolve matters where there was no consensus. Commission approval would ensure that all service providers would be motivated to operate pursuant to any updates and revisions.

Disposition

We agree that service providers with a desire to operate in the local market and other interested entities should be given public notice and an opportunity to participate in a Commission-sponsored industry work group convened to finalize Pennsylvania migration guidelines and keep them up-to-date.¹³ To the extent that the group agrees upon processes and procedures (and subsequent revisions thereto) and they are adopted by the Commission, the processes and procedures (and revisions) will become part of the Pennsylvania migration guidelines. The Pennsylvania migration guidelines, initially and as they are ad-

justed from time to time, should be identified and adopted by Secretarial Letter or Commission order.

§ 63.204. Standards for the exchange of customer service information.

Positions of the Parties

The parties who are also active in New York proposed that the practices used there be adapted to Pennsylvania. This raised concerns about recognizing the privacy of customer records and the allocation of burdens for assuring a customer had given a prospective new LSP (NLSP) authority to access the customer's service records.

Disposition

This matter was not addressed by the Interim Guidelines, but the collaborative spent a considerable amount of time focused on the various alternatives that could have been advanced to the proposed regulations. Ultimately, the consensus was reached to recognize the impracticalities and burdens on the OLSP of requiring an OLSP to see proof of a prospective NLSP's right to access a customer's service records. The proposed regulations establish that a prospective NLSP is not to request access to a customer's service records from another LSP without verified authority to do so. If a prospective NLSP violates this provision, the customer may bring a complaint to the Commission.

§ 63.205. Removal or lifting of LSPFs.

A local service provider freeze (LSPF) is a designation elected by a customer that restricts a third party's ability to change the customer's choice of preferred LSP. A customer with a LSPF must take steps to lift the LSPF by advising the customer's preferred LSP of the customer's intention to change LSPs. The Commission, in an Order entered on June 20, 2002, at Docket No. M-00021592, directed Verizon PA to address the possibility of implementing a web page as a freeze-lifting option. Further, Verizon PA was to address this issue as part of the Changing LSPs collaborative.

Positions of the Parties

Verizon PA presented information on its web-based option for lifting LSPFs and committed to a Fall 2002 launch. According to Verizon PA, the webpage would be available to Verizon PA customers 24 hours a day/7 days a week using a secure access process. Flow-through requests to lift LSPFs will be effective in 24 hours or less. Manual lifting of a LSPF will require 48 hours and will be designed as next day manual fallout. Customers will not be able to lift a LSPF on resold local services (or to initiate a LSPF) using the webpage. Verizon PA wishes to prohibit third parties from using the webpage to lift a customer's LSPF. Verizon PA further argued that any requirements imposed on it for providing LSPF-lifting mechanisms should also be imposed on other LSPs. Verizon PA noted that it does not proactively market LSPFs and estimates that it has approximately 20,000 customers with LSPFs.

Other parties questioned why someone other than the customer should be prohibited from using the Verizon PA website, with the customer's permission, to lift a LSPF. The OCA and other parties believe that Verizon PA should extend its business hours for customers to lift LSPFs. One LSP favored use of a ".wav" file¹⁴ to document a customer request to lift a LSPF.

¹⁰ There already exists a pattern for such cooperative "rules of the road," e.g., as in terms of dialing parity.

¹¹ The Law Bureau will provide the Commission oversight for the migration guidelines, which the parties have requested.

¹² See discussion of industry work group § 63.203(b) & (c), below.

¹³ We shall issue a Secretarial Letter to advise the parties that the Law Bureau will provide the Commission oversight for the migration guidelines and industry work group. Many of the parties in the collaboratives also participate in the Pennsylvania Carrier Work Group (PA CWG), which with its subgroups, is an established, effective, non-adversarial forum for operational discussions between service providers, statutory advocates and staff. We suggest that the industry work group operate as a subgroup of the PA CWG. To date, the PA CWG has focused primarily on implementing the PA Carrier-to-Carrier Guidelines (C2C Guidelines) and the PA Performance Assurance Plan (PA PAP) adopted in *PMO II*, Docket No. M-0011468 to address the quality of Verizon PA's wholesale service (including resale) to CLECs. While the primary industry input to the PA CWG is presently from Verizon PA and CLECs operating within Verizon PA's service territory, participation is not limited to those entities, and topics are not be limited to Verizon PA/CLEC matters.

¹⁴ A ".wav" file uses a format developed by Microsoft which allows the storage of content with no pre-processing other than formatting the content. For example, a .wav file may be used to record a conversation containing a third-party verification of a customer's request to have a LSPF lifted. The .wav file may be emailed, stored and played audibly.

MCI, MetTel and AT&T do not offer LSPFs. Other companies were reluctant to divulge their marketing practices as to LSPFs. Some parties believe that the Commission should continue to allow service providers to offer LSPFs. Other parties urged that, until all of a LSP's customers had access to 24/7 freeze lifting mechanisms, the LSP should be precluded from offering LSPFs. Some parties felt that the best prevention of slamming would be certain and swift penalties.

Another issue was the identification of the presence of a LSPF in the customer service record (CSR). The LSPs who are CLECs wanted LSPF information to be clearly identified as such in customer records for use in discussions with prospective customers.

Disposition

Verizon PA initiated its website freeze lifting mechanism in December 2002. Verizon PA also agreed to identify the LSPF information on the CSRs. We believe that the website, which provides "24/7" access to Verizon PA customers, and their designees, to lift LSPFs is sufficient, in conjunction with normal business office operation. If tighter intervals, monitoring, or further procedures become an issue for service providers working with Verizon PA, the PA CWG is an available forum for further discussions.¹⁵

LSPs offering LSPFs shall provide appropriate customer access, as may be defined by this Commission or the Federal Communications Commission (FCC),¹⁶ to their customers for lifting LSPFs. Disputes between LSPs as to the appropriateness of customer access to the OLSP for lifting LSPFs or the speed with which the OLSP lifts the freeze may be referred to the Commission. If a LSP chooses to offer LSPFs, its CSRs will have to clearly divulge the presence of LSPFs.

We recognize the seeming validity of Verizon PA's argument that freeze lifting mechanisms should be reciprocal, but with so few other LSPs offering LSPFs, we do not perceive a need to adopt stringent rules at this time for LSPs not offering freezes.

As to who may lift a LSPF, we note that migration of "frozen" service requires affirmative action by the customer to lift the LSPF. It is clear under the FCC regulations that a customer can delegate authority to a third party to place and lift freezes on service.¹⁷ The controversy is whether a customer could make such a delegation to a prospective NLSP. At this point, we believe that status as a prospective NLSP should not preclude an entity from exercising an explicit delegation of freeze-lifting authority from its prospective customers. Under appropriately documented circumstances, a customer should be able to choose to delegate such authority to a prospective NLSP. Such a delegation must expressly state that it is a delegation of authority to lift a LSPF. Documentation of such authority will, however, be extremely important. The question of whether a prospective NLSP actually had the customer's authority is a matter that should not trouble the OLSP. It will be the prospective NLSP who is at risk if it cannot prove the existence of authority.

We agree that the best deterrent to slamming is sure and swift recourse against the slamming service provider.

¹⁵ We shall issue a Secretarial Letter to close the proceeding at *PUC v. Verizon PA, Inc.*, Docket No. M-00021592.

¹⁶ The FCC regulations are at 47 CFR §§ 64.1100 through 64.1195, changing long distance carriers. 47 CFR § 64.1190(b) extends the FCC requirements to LSPs.

¹⁷ 47 CFR § 64.1100(h) defines "subscriber" to include "any person contractually or otherwise lawfully authorized to represent" the party "responsible for payment of the telephone bill." See also 47 CFR § 64.1190(e), procedures for lifting preferred carrier freezes.

Slamming is a serious violation of our statute and regulations, as well as of federal regulations. Violations or fraud in freeze-lifting matters will be considered even more egregious than other slamming violations. A LSP that violates freeze-lifting procedures or slams frozen service will be penalized. Penalties up to and including one thousand dollars per day may be levied. (66 Pa.C.S. § 3301).

§ 63.206. Porting Telephone Numbers.¹⁸

Positions of the Parties

Based on the FCC rules regarding porting, most of the parties agreed that customers could port their number up until the time of termination or discontinuation of service. The PTA disagreed with this position.

Disposition

The proposed regulations clarify and document the long-standing position of this Commission that termination of service by an OLSP or prior discontinuation of service by a customer are the only reasons for the OLSP to refuse to allow number porting upon an otherwise-appropriate request to do so. The telephone number may not be held hostage to retain a customer or because of a dispute between a customer and the OLSP.

§ 63.207. Discontinuance of Billing.

Positions of the Parties

This was not an area of significant disagreement among the parties. All recognized the need to avoid overlapping or incorrect billing.

Disposition

The proposed regulations would establish a 42-day outside limit for the OLSP to render a final bill to a customer who has migrated service to another LSP.

§ 63.208. Carrier-to-carrier guidelines and performance assurance plans.

As noted in footnote 13 above, Verizon PA is subject to the PA Guidelines (containing metrics) and the PA PAP (providing for remedies). To the extent that the metrics and remedies call for a more explicit or a higher level of performance for Verizon PA's wholesale and resale performance, they shall establish Verizon PA's minimum obligations in the event of a conflict with the proposed regulations or the migration guidelines. Presently, Verizon PA is the only service provider with specific metrics and remedies.

INTERFERING STATIONS

§ 63.301.—§ 63.304. Duties of Service Providers.

Positions of the Parties

The issue of interfering stations received considerable attention during the collaborative process. An interfering station condition is the presence of pre-existing service that prevents the reuse of existing telephone facilities by a NLSP to serve a new customer at a location where the former customer has not notified the OLSP to disconnect the telephone service. Participating service providers acknowledged that the Commission's experiences in this area are reflective of day-to-day problems encountered by LSPs.

Verizon PA and MCI presented information on the procedure they use to deal with an interfering station and

¹⁸ The participants agreed that a customer has the right to know about number portability. Getting this information to a customer is an aspect of consumer education and information, which has been consolidated in the Customer Information collaborative (M-00011584) and subsequent rulemaking.

the results of a trial run in Pennsylvania.¹⁹ Verizon PA and MCI stated that the procedure worked in the instances when it was applied. Their procedure requires NLSPs to contact landlords, do property deed searches, and contact taxing authorities in an attempt to verify the standing of an applicant to have service connected at a location in question if there is existing service in place.

The majority of other parties did not want to require the prospective NLSP to make such contacts or perform such searches. A majority of the other LSPs characterized the Verizon PA-MCI process as too burdensome on the prospective NLSP and as going beyond a utility's traditional role in the application process. Consumer representatives preferred to retain traditional limits on utility requirements in processing applications. Some parties opined that contacting landlords and searching deed records could present confidentiality issues or expose the prospective NLSPs to liability for mistakes.

Disposition

The purpose of this aspect of the proposed regulations is to provide an orderly approach to resolving the dilemma of interfering stations. We have attempted to apportion the responsibilities among the OLSPs, the NLSPs, the NSPs, and the applicants without placing any undue hardships or risks on any of the entities involved.

DISPUTES

§ 63.401. Consumer complaint procedures.

Positions of the Parties

The parties were somewhat split on this subject. Some wanted extensive customer protections while others believed that a dissatisfied customer's best recourse was the ability to switch service providers in the event of a dispute.

Disposition

We did not specifically address residential and non-residential disputes in this collaborative. Non-residential disputes were discussed extensively in the Customer Information collaborative.²⁰ The customer complaint issues addressed herein were raised in part to ensure that procedures for resolving complaints were delineated. The proposed regulations strike a balance between customer protection and customer choice in a competitive market.

§ 63.402. Expedited dispute process.

Positions of the Parties

The parties agreed that there should be a dispute resolution process for disputes between service providers that would be non-adversarial and would not require legal representation. It was suggested that the Commission pursue a time-sensitive process similar to one operating in New York, where a third-party (e.g., the New York Public Service Commission) attempts to resolve issues between the parties.

Disposition

We shall establish an expedited dispute process and designate contacts within the Commission to assist the

service providers in determining a workable solution to problems as they may arise. This process should result in an informal staff review of the situation within two (2) business days of the submission of the problem, contact with the other service providers involved in the controversy, and a suggested, non-binding resolution of the situation consistent with 52 Pa. Code § 1.96. This process will not be a prerequisite to access to the Commission's alternate or formal dispute resolution processes.

Other Areas of Discussion

These matters were raised in the collaboratives but were not included in the proposed rulemaking for the following reasons.

Review of Chapter 63: The OCA sponsored a presentation by Rowland Curry to a combined session of all collaboratives calling for updating retail service quality regulations. Mr. Curry noted problems with the current service quality regulations and made recommendations for correcting these problems. Most of his recommendations addressed the development of new standards to measure the quality of telecommunications service provided to customers rather than the procedures for coordination between service providers. After discussion, the parties agreed that the OCA issues went beyond the intent of this rulemaking. In response to this consensus, the OCA filed a petition for review of Chapter 63, which has been docketed at *Petition for Review of Chapter 63*, Docket No. P-00021985.

Repair: This matter was addressed in the Interim Guidelines but is not included in the proposed regulations because there appeared to be no need for regulation to address the issue. The parties agreed that a LSP should not shift the burden of dealing with NSPs to the customer. Customers should not be burdened with solving the maintenance and repair problems after they have notified their LSPs about a problem beyond the NID. We agree. If further clarification of this matter is required, we shall address it when the matter arises.

Line & Circuit Information: It was suggested that customers should have access to their line and circuit information. After discussion, the parties agreed that providing customers with line and circuit identification information would be impractical, burdensome, and confusing and could result in unintended consequences if future migrations are predicated upon customers being able to reproduce the information. The parties agreed that establishing record retention requirements should be part of the business rules.

We agree that there should be certain standardized records maintained to facilitate an orderly migration or restoral of service. However, codifying a particular technology for such retention may have a counter-productive effect in a world of rapidly changing technology. Accordingly, each LSP and NSP should maintain, in an exchangeable format, accurate and reliable line and circuit identification information. The details of such information shall be addressed in the migration guidelines.

Slamming: The OCA and the Public Utility Law Project (PULP) believe that the Commission should elect to administer the FCC's anti-slamming rules. The OCA also suggested that the proposed regulations recognize the FCC's anti-slamming rules and identify specific provisions within the FCC rules for Commission enforcement.

We have previously decided that it is neither necessary nor practical to elect to administer the FCC's anti-slamming rules. Accordingly, we shall not assume primacy over the FCC's rules. Further, we see no need to

¹⁹ MCI was the only LSP to agree to participate in the trial.

²⁰ The parties agreed that it would be beneficial to have an informal, non-adversarial dispute resolution process for resolving disputes between non-residential customers and service providers that would not require legal representation. To this end, a mini-collaborative was formed as an adjunct to this collaborative and to the customer information collaborative involving interested LSPs, the OSBA, the OALJ, the Law Bureau, the BCS, and the Office of Communications. After exploring numerous options, the mini-collaborative concluded that the existing mediation process in the OALJ will achieve many of the objectives. We see the potential value to customers, service providers, and this Commission of an informal, non-adversarial dispute resolution process for business customers. We also believe that our existing mediation process in the OALJ can serve this function.

identify specific regulations within the FCC rules for Commission enforcement. As we stated in our March 23, 2001 Secretarial Letter, we expect all LSPs to adhere to the FCC's rules, and we intend to enforce our regulations as they pertain to local service. This statement of expectation and intention does not require express incorporation in the proposed regulations; it is the underpinning of an orderly market. LSPs are expected to adhere to the FCC's anti-slamming rules²¹ and the Commission's regulations and requirements.²²

Differences between Migration of Service and Termination and Discontinuation of Service: Recently, a CLEC in its capacity as an OLSP requested Commission approval of a tariff establishing charges to NLSPs for migration of customer service. In our order suspending the tariff, we directed the Changing LSPs collaborative to address whether there were significant differences between migrations of service and terminations or discontinuations of service.²³ The collaborative noted that while migrations might require more coordination and higher priority work²⁴ than pure terminations or discontinuations, they had no proposed regulations on this issue.

Conclusion

Accordingly, pursuant to sections 501 and 1501 of the Public Utility Code, 66 PA.C.S. §§ 501 and 1501; to sections 201 and 202 of the Act of July 31, 1968, P. L. 769 No. 240, as amended, 45 P. S. §§ 1201—1202, and the associated regulations at 1 Pa. Code §§ 7.1, 7.2, and 7.5; section 204(b) of the Commonwealth Attorneys Act, Act of October 15, 1980, P. L. 950, as amended, 71 P. S. 732.204(b); section 745.5 of the Regulatory Review Act, Act of June 25, 1982, P. L. 633, as amended, 71 P. S. § 745.5; section 612 of the Administrative Code of April 9, 1929, P. L. 177, as amended, 71 P. S. § 232, and the associated regulations at 4 Pa. Code § 7.231—7.234, we are considering adoption of the proposed regulations regarding migration of telecommunications service and interfering stations, as set forth in Annex A: *Therefore,*

It Is Ordered That:

1. This docket be opened to consider the proposed regulations set forth in Annex A.

2. The Secretary shall submit this Order and Annex A to the Office of Attorney General, for review as to form and legality, and to the Governor's Budget Office, for review of fiscal impact.

3. The Secretary shall submit this Order and Annex A for review and comment to the Independent Regulatory Review Commission and the Legislative Standing Committees.

4. The Secretary shall certify this Order and Annex A and deposit them with the Legislative Reference Bureau to be published in the *Pennsylvania Bulletin*.

5. An original and 15 copies of any comments referencing the docket number of the proposed regulations be submitted within 45 days of publication in the *Pennsylvania Bulletin* to the Pennsylvania Public Utility Commission, Attn.: Secretary, P. O. Box 3265, Harrisburg, PA 17105-3265. In addition, one copy in electronic format (Microsoft Word® 2002 or readable equivalent) on diskette

²¹ See generally 47 CFR §§ 64.1100—64.1195.

²² See generally 52 Pa. Code Chapter 64 and Secretarial Letter of March 23, 2001, which have been applied in practice to local service for residential and business customers.

²³ See *Choice One Communications of Pennsylvania, Inc.*, Docket No. R-00027409 (June 27, 2002). The CLEC withdrew its filing on August 7, 2002.

²⁴ For example, migrations may involve more coordination among service providers, immediate reuse of facilities, number porting and hot cuts, which are generally not required in pure disconnects.

shall be provided to the Secretary and a second copy on diskette shall be provided to the attention of Louise Fink Smith, Esq., at the same mailing address.

6. The contact persons for this rulemaking are M. J. (Holly) Frymoyer, Bureau of Consumer Services, 717-783-1628 (technical), and Louise Fink Smith, Assistant Counsel, Law Bureau, 717-787-8866 (legal). Alternate formats of this document are available to persons with disabilities and may be obtained by contacting Sherri DelBiondo, Regulatory Coordinator, Law Bureau, 717-772-4579.

7. A copy of this Order and Annex A shall be served upon the Pennsylvania Telephone Association, the Telecommunications Resellers Association, the Pennsylvania Cable Television Association, the Public Utility Law Project, all jurisdictional telecommunications utilities in the Commonwealth, the Office of Trial Staff, the Office of Consumer Advocate, and the Office of the Small Business Advocate.

8. The Changing Local Service Providers collaborative at Docket No. M-00011583 and the Quality of Service collaborative at Docket No. M-00011585 shall both be marked closed with the reference that the rulemaking for both collaboratives has been consolidated at this docket.

JAMES J. MCNULTY,

Secretary

Fiscal Note: 57-230. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 52. PUBLIC UTILITIES

PART I. PUBLIC UTILITY COMMISSION

Subpart C. FIXED SERVICE UTILITIES

CHAPTER 63. TELEPHONE SERVICE

Subchapter M. CHANGING LOCAL SERVICE PROVIDERS

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INTERFERING STATIONS

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DISPUTES

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| 63.221. | Consumer complaint procedures. |
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GENERALLY

§ 63.191. Statement of purpose and policy.

(a) The purpose of this subchapter is to establish general rules, procedures and standards governing the migration of customers between LSPs, including porting

telephone numbers, resolving interfering stations, exchanging customer records and the transition of billing accounts. The primary objective of this subchapter is to establish standards to ensure that customers can migrate from one LSP to another LSP without confusion, delay or interruption to their basic service.

(b) This subchapter applies to:

(1) LSPs and NSPs for migration of customers between LSPs.

(2) LSPs and NSPs when interfering station conditions are encountered.

(c) This subchapter does not apply to:

(1) Mass migrations of customers brought about by the selling or transferring of a customer base of one LSP to another.

(2) A LSP that has properly proceeded with the abandonment of service to its customer base.

(3) DSL migration.

(4) Line sharing/splitting arrangements.

(d) To the extent that other regulations do not address circumstances as described in subsection (c), this subchapter may provide guidance for those transactions.

§ 63.192. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

Applicant—

(i) A person who applies for telephone service, other than a transfer of service from one dwelling to another within the service area of the LSP or a reinstatement of service following a discontinuation or termination.

(ii) The term does not apply to a customer who is subject to special contractual arrangements and has otherwise agreed to different conditions of service that do not contradict Commission rules or regulations.

CSR—Customer service record—Documentation indicating the customer's name, address, contact telephone number, quantity of lines, services, features and other information associated with a customer account.

Commission review—Includes informal or formal review, evaluation or adjudication, staff-level review or alternate dispute resolution.

Customer—The end user recipient of telephone service provided by a LSP.

DSL—Digital subscriber line—A dedicated, high-speed, always-on service, frequently used in the context of "aDSL" or "xDSL."

Discontinuation of service—The temporary or permanent cessation of service upon the request of a customer.

Freeze—A designation elected by a customer that restricts a third party's ability to change a customer's choice of preferred service providers.

Interfering station—Preexisting service that prevents the reuse of existing telephone facilities by a new LSP to serve a new customer at a location where the prior customer did not notify the previous LSP to disconnect the telephone service. The previous LSP and the new LSP may be the same company.

LOA—Letter of authorization—

(i) Sometimes used in a general sense as the data or record indicating that the customer has authorized the new LSP to act as the customer's agent.

(ii) The term is used to indicate a specific document signed by a customer granting a new LSP the authority to act as the customer's agent.

LSC—Local service confirmation—Documentation issued by the NSP to inform the LSP of the confirmed scheduled completion date for work affecting specific telecommunications service activities such as unbundled loop connections.

LSP—Local service provider—A company, such as a local exchange carrier (LEC), that provides local service by resale, by unbundled network elements (with or without platform) or through its own facilities, or by a combination of these methods of providing local service to a customer.

(i) NLSP indicates "new" LSP, and OLSP indicates "old" LSP.

(ii) A LSP may also provide other telecommunications services, as well as nonjurisdictional services.

LSP-to-LSP end user migration guidelines or migration guidelines—A documentation of processes and procedures that establish general business rules, privacy protocols and general procedures governing the migration of end users (customers) between LSPs.

(i) The migration guidelines were developed by consensus among telecommunications industry participants and associations, statutory advocates and the Commission.

(ii) The migration guidelines will be amended from time to time as industry practices change.

LSPF—Local service provider freeze—A designation elected by a customer that restricts a third party's ability to change a customer's choice of preferred LSP.

LSR—Local service request—Document issued by LSPs to NSPs to arrange for installation of, change in or disconnection of services.

(i) The LSR is sent by a LSP to a NSP, for example, to request the activation of number portability, the installation of an unbundled loop facility, or the disconnection of loop facilities and migration of a number.

(ii) The NSP uses the LSR to create the internal directives, for example, a service order, to cause the work to be performed as ordered.

Line sharing—The sharing of facilities by a LSP and a NSP in the provision of voice and data services to a given location over the same facilities.

Line splitting—The sharing of facilities by two LSPs, when neither is the NSP, in the provision of voice and data services to a given location over the same facilities.

Local service—Telecommunications service within a customer's local calling area.

(i) The term includes the customer's local calling plan, dial tone line, touch-tone and directory assistance calls allowed without additional charge.

(ii) The term also includes services covered by the Federal line cost charge, Pennsylvania Relay Surcharge, Federal Universal Service Fund Surcharge, Local Number Portability Surcharge, Public Safety Emergency Telephone Act (9-1-1) Fee and applicable Federal and State taxes.

Local service reseller—A LSP that resells another company's wholesale telephone services to provide local service to customers.

Migration—The movement of a customer from one LSP to another LSP at the same service location.

NLSP—New local service provider.

NSP—Network service provider—A carrier that interacts with LSPs and provides the facilities and equipment components needed to make up a customer's telecommunications service.

(i) An NSP may also be referred to as an underlying carrier.

(ii) An NSP may also be a LSP.

OLSP—Old local service provider.

Preferred service provider—The company chosen by a customer to provide particular telecommunications services. A preferred service provider is sometimes referred to as a "preferred carrier."

Porting—The process that allows customers to keep their telephone numbers when changing LSPs.

Service provider—A generic term to include LSPs and NSPs.

Termination of service—Permanent cessation of service after a suspension without the consent of the customer.

MIGRATION

§ 63.201. General migration standards.

(a) A customer has the right to migrate from one LSP to another LSP.

(b) The NLSP shall communicate and explain to the customer the migration process and the migration timetable for various services, when applicable.

(c) The OLSP has the right to protect itself from potential loss as permissible by Commission regulations and by its lawful tariff in instances when Commission regulations do not address a situation.

(d) The OLSP and the NLSP shall work together in good faith to minimize or avoid problems associated with migrating the customer's account.

(e) The OLSP may not prohibit the NLSP from reusing facilities that are no longer needed by the OLSP to provide service to the migrating customer or other customer. If the OLSP has a conflict over the use of the facilities, it shall be resolved using the interfering station procedure.

(f) Each LSP shall ensure that its 9-1-1 and Directory Listings/White Pages databases are accurate, accessible and updated as appropriate.

(g) Each LSP and NSP shall maintain a company contact and escalation list for use in resolving migration problems and interfering station conditions. LSPs and NSPs shall exchange their lists with each other and provide copies to the Commission. The lists shall be updated as necessary to ensure that the information is current and accurate.

§ 63.202. Migration responsibilities of NLSPs and NSPs.

(a) The prospective NLSP shall communicate and explain the migration process and the migration timetable for various services, when applicable, to the customer.

(b) The prospective NLSP shall be responsible for coordinating the migration of the customer's local service with its NSP, if any, and with the OLSP.

(c) The prospective NLSP shall provide the LSR information to affected service providers, as applicable.

(d) The NSP shall issue a LSC or rejection within 5 working days from the date it receives a valid LSR from the prospective NLSP.

(e) The NLSP shall be responsible for coordinating a customer's service restoration that may become necessary due to problems with the migration.

§ 63.203. Migration Guidelines and industry work group.

(a) In addition to compliance with this subchapter, LSPs and NSPs shall follow the Migration Guidelines developed and updated by a telecommunications industry work group as a baseline set of principles, responsibilities and ground rules to facilitate migration of customer service.

(b) The Commission will establish an industry work group to be responsible for creating and updating the Migration Guidelines and addressing issues associated with LSP migrations as industry practices change.

(c) To the extent that the industry work group cannot agree on the details of the Migration Guidelines, the industry work group may request Commission review.

§ 63.204. Standards for the exchange of customer service information.

(a) Prospective NLSPs may not acquire CSRs without a verified customer authorization. The prospective NLSP shall use one of the following verification procedures and shall retain the authorization and verification for 2 years:

(1) An LOA from the customer of record to review the customer's account.

(2) A third-party verification of the customer's consent.

(3) A recording verifying permission from the customer.

(4) Oral authorization documented with appropriate retained documentation.

(5) Additional procedures as may be authorized by the Federal Communications Commission (FCC) or the Commission.

(b) The prospective NLSP shall indicate to the customer's current LSP that it has a verified authorization for access to the CSR. The NLSP is not required to provide a copy of the authorization or verification to the current LSP.

(c) A current LSP may not contact a customer to retain or keep that customer as a result of a request from another LSP for the customer's CSR.

(d) When a prospective NLSP has verified authorization from the customer to switch the customer's LSP, the prospective NLSP shall request the customer's network serving arrangements and a CSR from the OLSP. The prospective NLSP is not required to provide proof to the OLSP of the authorization or verification at the time of migration. The prospective NLSP shall use one of the following types of verification and shall retain the authorization and verification for 2 years:

(1) An LOA from the customer to switch LSPs.

(2) A third-party verification of the customer's request.

(3) An electronic verification of the customer's request to switch LSPs that contains unique identifying information.

(4) Additional procedures as may be authorized by the FCC or the Commission.

(e) A customer's current LSP shall provide the following information when the CSR is requested to migrate a customer's service:

(1) Billing telephone number and working telephone number.

(2) Complete customer billing name and address.

(3) Complete service address, including floor, suite unit and any other unique identifying information.

(4) 9-1-1/E-9-1-1 information.

(5) Directory listing information, including address, listing type and all other pertinent information.

(6) Preferred service providers for interLATA, intraLATA, local basic service and other services.

(7) Provider freeze status by interLATA toll, intraLATA toll, local basic service and other services.

(8) Listing of all vertical services (for example, custom calling, hunting, and the like) to which the customer currently subscribes.

(9) Listing of all optional services (for example, 900 blocking, toll blocking, remote call forwarding, off-premise extensions, and the like) to which the customer currently subscribes.

(10) Tracking number or transaction number (for example, purchase order number).

(11) Service configuration information (for example, resale, UNE-P, unbundled loop).

(12) Identification of NSPs.

(13) Identification of any line sharing/line splitting on the migrating customer's line.

(f) Timetable for providing CSRs, minimum requirements:

(1) By _____ (*Editor's Note: The blank refers to the effective date of adoption of this proposal.*), OLSPs shall provide 80% of requested CSRs within 48 hours.

(2) After _____ (*Editor's Note: The blank refers to a date 6 months after the effective date of adoption of this proposal.*), OLSPs shall provide 80% of requested CSRs within 24 hours.

(3) After _____ (*Editor's Note: The blank refers to a date 1 year after the effective date of adoption of this proposal.*), OLSPs shall provide 80% of requested CSRs the same day if the request is made by noon of that day, or by noon the next day if requested after noon.

§ 63.205. Removal or lifting of LSPFs.

(a) The prospective NLSP may not process a change in LSP if the customer does not remove an existing LSPF at the time of application. The prospective NLSP shall inform the applicant of the following at the time of application:

(1) If the applicant has a LSPF, the LSPF must be removed before the OLSP may process the prospective NLSP's request for a change of the customer's LSP.

(2) The applicant or appropriate agent shall contact the OLSP to have a LSPF lifted before an order to migrate the service may be processed.

(3) A prospective NLSP may not authorize the removal of an applicant's LSPF.

(b) When the prospective NLSP is also seeking to provide other services, (for example, interexchange, intraLATA, interLATA, interstate or international toll) covered by freezes, authorizations to lift the freezes may be transmitted in one process, if the applicant expressly requests that each freeze be lifted. The prospective NLSP shall inform the applicant of the distinctions among the services and of the requirement that service may not be migrated unless the customer expressly lifts each freeze.

(c) LSPs shall provide various methods to customers for lifting LSPFs, as required by the Commission or the Federal Communications Commission.

§ 63.206. Porting telephone numbers.

An OLSP may not refuse an otherwise valid request to port a number to a NLSP unless the number is for service that has been terminated or discontinued under Chapter 64 (relating to standards and billing practices for residential telephone service) for residential customers or consistent with the LSP's lawful tariff for other customer classes.

§ 63.207. Discontinuance of billing.

(a) LSPs shall minimize overlap in billing during the migration between LSPs.

(b) Upon notification from the prospective NLSP that the customer has requested to migrate service to the prospective NLSP, the customer's OLSP shall, within 42 days, issue the customer a final bill for services rendered.

(c) Once the customer has paid the charges on the final bill, the OLSP shall immediately remove the customer from its billing system and discontinue billing.

(d) The OLSP shall stop billing the customer for any recurring charges as of the date of the change to the NLSP.

(e) This subchapter does not affect a customer's debtor/consumer rights or a LSP's creditor's remedies, as may be otherwise permitted by law.

§ 63.208. Carrier-to-carrier guidelines and performance assurance plans.

For a LSP or NSP subject to state or Federal carrier-to-carrier guidelines or performance assurance plans, if the carrier-to-carrier guidelines or performance assurance plan provide a more explicit or a narrower window for performance, the carrier-to-carrier guidelines or performance assurance plan shall control for that LSP or NSP.

INTERFERING STATIONS

§ 63.211. Duties of OLSPs and NSPs when an interfering station condition is identified.

(a) The OLSP or NSP shall inform the prospective NLSP of an interfering station condition by the end of the next working day after the OLSP or NSP identifies that an interfering station condition exists.

(b) The OLSP or NSP shall review the LSR information with the prospective NLSP to determine possible errors:

(1) Upon confirmation that the LSR information is correct, the OLSP or NSP shall inform the prospective NLSP that the LSR is cancelled because there is preexisting service at the service location.

(2) If the LSR information is incorrect, the OLSP or NSP shall correct the information and continue with the installation.

§ 63.212. Duties of the prospective NLSP and the applicant when an interfering station condition is identified.

(a) The prospective NLSP shall notify the applicant that there is preexisting service at the service location within 1 business day of the date it receives notice of the interfering station condition. The prospective NLSP shall contact the applicant by telephone, email, first class mail or in person to request that the applicant verify the address at the service location.

(b) If the applicant fails to respond to the notice within 5 days, the prospective NLSP may cancel the application.

(c) If the applicant informs the prospective NLSP that the address is incorrect, the prospective NLSP shall correct the information on the application and submit a new LSR.

(d) The prospective NLSP shall provide the new service installation date.

(e) If the applicant verifies that the address is correct, the prospective NLSP shall explain that new service is not able to be installed using the same facilities due to preexisting service at the address and request the applicant to provide proof of ownership or right of occupancy.

(f) If the applicant provides proof of ownership or right of occupancy, the prospective NLSP shall advise the applicant of the following options. The applicant may:

(1) Authorize the prospective NLSP to contact the OLSP to confirm abandoned service.

(2) Attempt to resolve the interfering station condition with the customer of record.

(3) Arrange for the installation of new facilities.

(i) If inside wiring is required, the applicant shall provide proof of installation before the prospective NLSP is able to proceed with the LSR.

(ii) If new facilities (for example, outside wiring or a network interface device (NID)), are required, the prospective NLSP shall advise the applicant that the applicant shall pay for the installation of the new facilities pursuant to lawful tariff rates and that the installation may take longer than 5 days.

(4) Cancel the application.

§ 63.213. Duties of the OLSP if notified by the prospective NLSP that an interfering station exists at a location where existing service is provided by the OLSP and the applicant has shown proof of ownership or right of occupancy.

(a) Within 3 business days of notification, the OLSP shall issue a termination notice to the customer of record in the OLSP's billing system. The notice of termination shall state the reason for termination, date of termination and what the customer of record is required to do to prevent termination. The termination date shall be 7 days from the date of mailing of the notice by first class mail.

(b) If there is no contact from the customer of record, the OLSP shall remove the customer from billing and take appropriate action to release the facilities to the prospective NLSP.

(c) If the OLSP is contacted by the customer of record who does not agree to the termination of service, the OLSP shall notify the prospective NLSP of the inability of the OLSP to release the facilities to be used by the prospective NLSP.

§ 63.214. Duties of the prospective NLSP when the OLSP is unable to resolve the interfering station condition at the applicant's service location.

(a) The prospective NLSP shall contact the applicant and explain that the preexisting customer will not agree to the termination of service and that the prospective NLSP is not able to use the existing facilities.

(b) The prospective NLSP shall inform the applicant of the following options:

(1) The applicant may pursue any disputes between co-tenants, owners and occupants before an appropriate forum for the remedy. The prospective NLSP shall inform the applicant that neither the prospective NLSP, the OLSP nor the Commission is responsible for or available to resolve private disputes between customers and applicants.

(2) If inside wiring is required, the applicant shall provide proof of installation before the prospective NLSP is able to proceed with the LSR.

(3) If new facilities (for example, outside wiring or a NID) are required, the prospective NLSP shall advise the applicant that the applicant shall pay for the installation of the new facilities pursuant to lawful tariff rates and that the installation may take longer than 5 days.

DISPUTES

§ 63.221. Consumer complaint procedures.

(a) *Records of complaints.* A service provider covered by or operating under this title shall preserve written or recorded complaints showing the name and address of the subscriber or complainant, the date and character of the complaint, the action taken and the date of final disposition. Records of complaints for residential customers shall be kept in accordance with § 64.192 (relating to record maintenance).

(b) *Commission review.* If a customer or applicant expresses dissatisfaction with the service provider's decision or explanation, the service provider shall inform the customer or applicant of the right to have the dispute considered and reviewed by the Commission and shall provide the name, address and telephone number of the appropriate Commission bureau. This subsection shall be read in conjunction with §§ 64.141—64.182 for residential service.

(c) *Investigations.* Upon receiving a complaint covered by this subchapter from an applicant, customer or third party, the Commission will transmit a summary of the complaint to the service provider. When complaints are referred to the service provider through the Commission, the service provider and the Commission will work to process and resolve the complaints. A service provider shall make a full and prompt investigation of complaints made to it through the Commission by the applicant, customer or third party.

(d) *Resolutions.* If a complaint is resolved between the service provider and the complaining party, the service provider shall advise the Commission and submit a copy of the service order or other documentation of satisfaction which identifies the action taken by the service provider to resolve the complaint. The service provider may not consider the complaint closed until the Commission advises the service provider that the Commission has closed the complaint.

§ 63.222. Expedited dispute process.

(a) The Commission will provide a nonadversarial, expedited dispute process to address migration disputes.

The Commission will designate contact persons through which LSPs and NSPs may request expedited resolution for alleged problems between service providers or compliance with this title and the migration guidelines pertaining to the migration of customer service.

(b) A LSP or NSP that has a dispute under this subchapter with another LSP which cannot be resolved between the entities may refer the dispute to the expedited dispute process for a suggested resolution in a nonadversarial context.

(c) The Commission designee will review the dispute within 2 working days of the date the dispute was received, attempt to contact the involved entities and suggest a nonbinding resolution of the dispute, consistent with § 1.96 (relating to unofficial statements and opinions by Commission personnel).

(d) If the expedited dispute process fails to resolve the dispute, the parties may resort to the Commission's alternate dispute or formal dispute resolution processes.

(e) The expedited dispute process is neither mandatory nor a prerequisite to the Commission's alternate or formal dispute resolution processes.

[Pa.B. Doc. No. 04-558. Filed for public inspection April 2, 2004, 9:00 a.m.]

[52 PA. CODE CH. 63]

[L-00030165]

Establishing Local Service Provider Abandonment Process for Jurisdictional Telecommunications Companies

The Pennsylvania Public Utility Commission, on December 18, 2003, adopted a proposed rulemaking order establishing an orderly process to follow when a local service provider abandons local telephone service. The contact persons are Wayne Williams, Bureau of Consumer Services, (717) 787-7137 and Terrance J. Buda, Law Bureau, (717) 783-5755.

Executive Summary

The advent of competition in the local telephone market in Pennsylvania has created situations that the Commission's current regulations do not address. To comply with certain aspects of the Telecommunications Act of 1996, the act of February 8, 1996 (Pub.L. No. 104-104, 110 Stat. 56), the Commission implemented a streamlined application process to modify traditional entry procedures applicable to telecommunications carriers. Specifically, the Commission's telecommunication procedures allow new entrants to commence service upon filing and service of the application, which must contain an interim tariff. These entry procedures apply to all carriers whether they are facilities-based, interconnected or reseller competitive local exchange carriers (CLECs). CLECs that are not facilities-based and rely either completely or partially for their underlying service on the incumbent local exchange carrier (ILEC) are considered resellers. If the CLEC fails to pay the underlying ILEC for the service it resells to its end-use customers, the CLEC's wholesale telephone service will be terminated. This results in the termination of dial tone service to the end-use customer—effectively a de facto abandonment of service by the CLEC. Although a public utility must seek prior approval to abandon service, the Commission's rules under Chapters 63 and 64 do

not cover abandonment of utility services nor do they address the notification of the end-use customers.

In April 2002, recognizing the need for both short-term and long-run solutions to problems associated with de facto abandonment, the Commission approved Interim Guidelines addressing the issues raised by this regulatory oversight. Later in 2002, the Commission held collaborative sessions that involved telecommunications carriers and other interested parties in discussions of the issues. The collaborative participants addressed proposals for regulations and proposed solutions to the problems created by the changing telecommunications marketplace.

By Order entered on December 23, 2003 at Docket No. L-00030165, the Commission adopted a Proposed Rulemaking Order to amend 52 Pa. Code § 63, consistent with the order and recommendations of the collaborative participants, the Bureau of Consumer Services and the Law Bureau. The intent of the proposed rulemaking is to promulgate a regulation to establish general rules, procedures, and standards to provide for an orderly process when a local service provider exits the market.

The proposed regulation applies to all local service providers (LSPs) and network service providers (NSPs) operating in Pennsylvania. The proposed regulation will provide for an orderly process when a NSP intends to embargo and terminate service to a LSP, when the Commission has issued an order to revoke a LSP's certificate of public convenience and when a LSP has filed an application to abandon a certificate of public convenience for the provision of local service. In particular, the regulation will ensure that customers do not lose service when their LSP exits the market and that customers are provided ample notice and the opportunity to select a new LSP of their choice. Moreover, the regulations will ensure that an abandoning LSP provides sufficient network information so that customers are able to be migrated seamlessly and also that an abandoning LSP coordinates with 9-1-1 service providers and the North American Numbering Plan Administrator. Finally, the regulations apply to a LSP that provides local service to residential or business customers.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on March 18, 2004, the Commission submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House and Senate Committees. In addition to submitting the proposed rulemaking, the Commission provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Commission. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, if IRRC has objections to any portion of the proposed rulemaking, it will notify the Department within 30 days of the close of the public comment period. The notification shall specify the regulatory review criteria that have not been met by the portion of the proposed rulemaking to which an objection is made. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the amendments, by the Commission, the General Assembly and the Governor of objections raised.

Public Meeting held
December 18, 2003

Commissioners Present: Terrance J. Fitzpatrick, Chairperson; Robert K. Bloom, Vice Chairperson; Kim Piz-zingrilli; Glen R. Thomas; Wendell F. Holland

Proposed Rulemaking—Establishing Local Service Provider Abandonment Process for Jurisdictional Telecommunication Companies; L-00030165

Proposed Rulemaking Order

By the Commission:

This proposed rulemaking order is intended to promulgate regulations to establish an orderly process when a local service provider (LSP)¹ abandons local telephone service. The proposed regulations, contemplating codification as a new subchapter in 52 Pa. Code Chapter 63, are attached as Annex A.

Procedural Background

In 1993, competition in the local telecommunications markets in Pennsylvania was initiated through the enactment of Chapter 30 of the Public Utility Code, 66 Pa.C.S. §§ 3001-3009. The Telecommunications Act of 1996 (TA-96) mandated the opening of local telephone service competition on a national level.²

To comply with certain aspects of TA-96, the Commission implemented a streamlined application process to modify traditional entry procedures applicable to telecommunication carriers. Specifically, the Commission's telecommunication procedures allow new entrants to commence service upon filing and service of the application, which must contain an interim tariff. These entry procedures apply to all carriers whether they are facilities-based, interconnected or reseller competitive local exchange carriers (CLECs).

CLECs that are not facilities-based and rely either completely or partially for their underlying service on the incumbent local exchange carrier (ILEC) are considered resellers. If the CLEC fails to pay the underlying ILEC for the service it resells to its end-use customers, the CLEC's wholesale telephone service will be terminated. This results in the termination of dial tone service to the end-use customer—effectively a defacto abandonment of service by the CLEC. Although a public utility must seek prior approval to abandon service, the Commission's rules under Chapters 63 and 64 do not cover abandonment of utility services nor do they address the notification of the end-use customers. Therefore, the purpose of this rulemaking is to address this regulatory issue.

At Public Meeting on December 4, 2001, we issued four tentative orders for public comment regarding interim guidelines for jurisdictional LSPs and NSPs.³ These tentative orders were designed to establish interim guidelines for Changing LSPs (M-00011582, base folder), Quality of Service (QoS) (F0002)⁴, Customer Information (F0003), and Abandonment of Local Service (F0004), pending the approval of final regulations. After a public comment period, we entered final orders at those dockets on April 23, 2002, approving interim guidelines.

As the first step in the rulemaking process, we also issued notices on December 4, 2001 that announced the

commencement of four corresponding local telephone competition collaboratives. The purpose of the collaboratives was to develop proposals for regulations to address the four areas of concern identified in the interim guidelines. Notice was sent to all telecommunications carriers and other interested entities in the Commonwealth and published in the *Pennsylvania Bulletin*. The collaborative meetings began in June 2002.⁵ Active parties included AT&T Communications of Pennsylvania, Inc. (AT&T); ATX—CoreComm (ATX); CTSI/Commonwealth Telephone (CTSI); Choice One Communications of PA, Inc. (Choice One); MCIWorldcom Network Services, Inc. (MCI); Metropolitan Telecommunications (MetTel); North Pittsburgh Telephone Company (NPT); Sprint/United Telephone Company (Sprint); Verizon Pennsylvania, Inc. and Verizon North, Inc. (Verizon PA); Z-Tel Communications (Z-Tel); the Pennsylvania Telephone Association (PTA); the Pennsylvania Cable Television Association (PCTA); the Office of Consumer Advocate (OCA); the Office of Small Business Advocate (OSBA); and the Pennsylvania Utility Law Project (PULP). Staff from the Commission's Bureau of Consumer Services (BCS), Bureau of Fixed Utility Services (FUS), Law Bureau, Office of Trial Staff (OTS), and Office of Communications also participated.

Parties were invited to make presentations and voice concerns in the collaborative sessions and submit written comments. The parties were advised that the Commission did not want the provisions of the interim guidelines to be viewed as necessary elements for the proposed rulemakings. The parties were free to use what they wanted from the interim guidelines, but they were also free to propose regulations and topics not covered by the interim guidelines. The Commission invited the parties to submit proposed regulatory language for consideration. Noting this latitude, the parties, nonetheless, preferred to use the interim guidelines as a starting point for the proposed regulations.

Most of the parties participated in more than one collaborative; many participated in all. During the multi-collaborative process, it became apparent that several of the topics under consideration could have been addressed in more than one of the collaboratives. Since there was also substantial overlap in terms of issues and proposals in the Changing LSPs collaborative (Docket No. M-00011583) and the QoS collaborative (Docket No. M-00011585), these two collaboratives were combined in a single rulemaking. It was further agreed that the various customer information issues should be consolidated with and addressed by the Customer Information collaborative (Docket No. M-00011584) and resulting rulemaking. The parties also agreed that transfers of customer base issues should be consolidated with and addressed in this Abandonment Process collaborative (Docket No. M-00011586) and resulting rulemaking.

Discussion

It should be noted that while every position espoused by each of the parties, whether in comments or in public collaborative sessions, may not be expressly detailed herein, each submittal was duly considered in the preparation of this Order and Annex A. Any position not expressly adopted herein is rejected without prejudice to future consideration as the parties request or the Commission deems appropriate.

⁵During 2002, the Abandonment Process collaborative met on June 4, July 16, and August 9.

¹As used throughout this proceeding, "local service provider" or "LSP" refers to a company, such as a local exchange carrier, that provides local service by resale, by unbundled network elements (with or without platform) or through its own facilities, or by a combination of these methods.

²Pub. L. No. 104-104, 110 Stat. 56, codified at 47 U.S.C. §§ 151 et seq. (TA-96)

³As used throughout this proceeding, "network service provider" or "NSP" refers to a service provider that interacts with LSPs and provides some or all of the facilities and equipment components needed to make up a customer's telecommunications service. A NSP may also be called an underlying carrier and is generally invisible to customers. A NSP may also operate as a LSP.

⁴"QoS" as used in M-00011582, F0002, and M-00011585 refers to how transactions between service providers are structured rather than to measures of the quantity or character of services provided to wholesale or retail customers. A proceeding is pending at Docket No. P-00021985 to address quality of service in terms of the measures or standards of services provided to customers as mandated by other provisions of 52 Pa. Code Chapter 63.

Subchapter N. Local Service Provider Abandonment Process Application

Positions of the Parties

Comments provided by OCA and OSBA support the application of the rules to voice and data service. Other parties generally supported the application of the rules to voice service only.

The parties also discussed whether the rules should apply to business customers in addition to residential customers. There was general agreement among the parties that the abandonment rules would benefit both residential and business customers by providing advance notice of the cessation of service along with the opportunity to select another provider.

Disposition

On this issue, we find that the rules should not apply to LSP's providing only data service as opposed to voice and data, or voice only. Clearly, our major concern from the beginning of this process with the issuance of the December 4, 2001 Tentative Order was customers losing their telephone service when their LSP exits the market. In particular, we are concerned with customers losing their access to 9-1-1 service providers. Therefore, we shall decline to apply these regulations to data services.

We also agree with the parties that the abandonment rules should apply to LSPs who serve residential and/or business customers. (§ 63.1101(b)(1))

Pre-Termination Embargo Process

Positions of the Parties

The parties were generally supportive of retaining the Pre-Termination Embargo Process that was contained in the Local Service Provider Abandonment Process Abandonment Interim Guidelines. The parties noted that an embargo is a useful tool and should be time-limited. ATX commented that there should be a clear method of determining what is a properly filed dispute that may be the basis for an embargo and requested Commission guidance on this issue. ATX advocated for greater Commission involvement in payment disputes between an underlying carrier and a local service provider who is a reseller or using unbundled network elements (UNE) with or without platform.

Disposition

We have retained a time-limited embargo process in the proposed regulations as supported by the parties. (§ 63.1103) (§ 63.1104)

On the issue of further clarification of what constitutes a properly filed dispute about the payment of charges between an underlying carrier and LSP, we refrain from offering further clarification or Commission involvement. The terms and conditions of arrangements between the underlying carrier and a LSP for wholesale services should be spelled out in an interconnection agreement between the two parties. The Commission expects that the parties will incorporate whatever specificity about disputes is desired by the parties into the interconnection agreements. The Commission does not wish to become routinely involved in contract matter disputes between the two entities.

Initiation of Abandonment

Positions of the Parties

The parties explored whether there are reliable financial or other indices that could be used as advanced signals of a likely future abandonment of LSP service. If

such indications could be identified, perhaps when a LSP's indices reached the threshold levels, it would be required to file for abandonment. Such a process was believed to be preferable to situations in which LSPs have waited until they do not have the financial means to notify customers of their impending abandonment and provide call center support for the process. The parties were not able to identify any reliable advance triggers that could be used to effectively signal an impending abandonment.

Disposition

We did not incorporate any specific advance triggers into the abandonment rules. However, we did require a LSP to file an application to abandon service not less than 90 days prior to the date when financial data or operational indices indicate there is a reasonable likelihood that the LSP will no longer be able to provide service to some or all of its customers. (§ 63.1105)

Alternative Notice Provider and LSP Deposit Requirements

Positions of the Parties

Based on past Commission history, the parties explored what entity could provide customers with notices in the event that a LSP abandons service without notifying its customers. Unfortunately, several LSPs have abandoned service in Pennsylvania without customer notice and without providing the necessary customer service record information that would enable other providers to easily migrate customers to their service. In these cases, the Commission's Bureau of Consumer Services, in cooperation with the NSP, provided the customer notice of abandonment. Fortunately, in these cases of irresponsible abandonment, there were not a large number of customers involved and the Commission was able to provide such notices.

The parties noted that provisions also should be made for making customer service records available as well as providing call center support for questions, billing inquiries and complaints. The collaborative discussions did not result in a consensus as to what entity could provide the customer notice, customer information and call center support in the absence of the abandoning LSP providing these functions. However, the parties agreed that it would be very difficult for another entity to effectively provide these functions without the LSP's back office operations being fully functional.

The parties discussed the issue of another entity stepping in to manage the customer service aspects of an abandonment by a LSP that exits the market in an irresponsible manner. This led to a discussion about whether the Commission could require deposits from LSPs to ensure that an abandoning LSP had the financial resources available to provide the necessary customer service functions for abandonment. While the parties discussed several ideas pertaining to deposit requirements, letters of credit and liens tied to LSP applications, no clear consensus emerged as to a workable solution to ensure the provision of necessary customer service functions for abandonment.

Disposition

We determined that it is the responsibility of the LSP that is abandoning service to provide the customer service functions of notifying customers, providing customer service records to other carriers and maintaining call center support upon abandonment. The LSP is in the unique position of having the information to provide these func-

tions and should rightfully go about the process of abandoning service in an orderly fashion. The Commission or any other entity should not be placed in the position of carrying out the necessary customer service functions for a LSP who abandons service. Therefore, the Commission shall, through this regulation, spell out the requirements for the abandoning LSP to perform these necessary customer service functions for abandonment. We will refrain from imposing additional financial requirements in the form of deposits or letters of credit on all LSPs at this time. However, if the Commission continues to experience LSPs exiting the market in an irresponsible manner after the implementation of final abandonment rules, we may revisit the need for imposing additional financial requirements on all LSPs to ensure orderly abandonments of service. (§ 63.1106)

Returning NNX Codes to the Area Code

Positions of the Parties

When the Commission approved the Interim Guidelines Establishing a Local Service Provider Abandonment Process for Jurisdictional Companies, Commissioner Pizingrilli, through a motion adopted by the Commission, directed that the abandonment collaborative promulgate regulations with provisions pertaining to the return of NXX codes. The motion stated:

1. The collaborative established to promulgate formal regulations regarding local service providers who abandon service address the disposition of these companies' NXX codes to ensure that any unused NXX codes are returned to the area code.
2. The regulations include a specific process through which local service providers who abandon service are required to return any unused NXX codes to the North American Numbering Plan Administrator (NANPA).

The collaborative parties discussed the issue and noted that a process already exists for returning unused NXX codes back to NANPA.

Disposition

We have incorporated specific provisions in the regulations that coincide with the process⁶ that already exists for returning unused telephone numbers to the number administrator. An abandoning LSP shall provide written notice to the National Number Administrator authorizing the release of all assigned telephone numbers to other companies and releasing all unassigned telephone numbers to the number administrator. (§ 63.1106(d))

Abandonment Plan

Positions of the Parties

The parties reviewed and discussed a draft of the Pennsylvania Mass Migration Guidelines that was prepared by Verizon PA. The Pennsylvania draft was based on the New York Mass Migration Guidelines⁷ that were in effect and governed the abandonment process in New York. Several of the parties assisted in the development of the New York Mass Migration Guidelines and had operational experience with the guidelines.⁸ One central part of the New York guidelines is the provision for the existing

local service provider to file an exit plan with the New York Public Service Commission. The parties agreed that the Pennsylvania regulations should have a similar provision that requires an abandoning LSP to file an exit plan with the Commission.

Disposition

We have incorporated a provision in the regulations for the filing of an abandonment plan with the Commission. An abandoning LSP shall file an abandonment plan with the Commission at least 90 days in advance of abandoning service. The regulation provides a checklist of information that is to be included in the abandonment plan. Further, the abandonment plan contains provisions for how customer service records will be made available to other carriers so that customers can be migrated to new service providers. The rules also require for the LSP to include plans for maintaining toll-free telephone access to the LSP's call center. (§ 63.1106)

There are three overall abandonment scenarios, each having implications for customer notices, customer selection periods and migration periods. The first overall scenario is when the abandoning local service provider (LSP) has made arrangements for some or all of its customers to be transferred to an acquiring LSP.

In this scenario, the abandoning LSP will send a notice 60 days in advance of the exit date advising customers subject to acquisition that they have 30 days to select another LSP or they will automatically be transferred to the new (acquiring) LSP. The 60 day timeframe allows customers to shop in the first 30 day period, the remaining 30 days provides for migration of service. Customers subject to acquisition who have not selected a new LSP in the first 30 days will automatically be migrated to the acquiring LSP. To prevent double migration, customers who are automatically migrated to the acquiring LSP will not be able to select another LSP during the 30 day migration period.

Customers who are subject to acquisition will be notified by the acquiring carrier 60 days before the exit date (commensurate with the start of the 30 day selection period) of the rates and terms of the acquiring carrier so that they can use the information in their decision-making process.

A second overall scenario is when there are customers who are not subject to acquisition but are subject to default service provisions with the network service provider (NSP). In this scenario, the abandoning LSP will send a notice 60 days in advance of the exit date, advising customers that they have 30 days to select another LSP or they will be automatically transferred to the default NSP. The 60 day timeframe allows customers to shop in the first 30 day period, the remaining 30 days provides for migration of service. Customers who do not select a new LSP in the first 30 day selection period will be automatically migrated to the NSP during the subsequent 30 day period. To prevent double migration, customers who are being automatically migrated to the NSP will not be able to select another LSP during the 30 day migration period.

The third overall scenario is when there are customers who are not subject to acquisition or default NSP service. In this scenario, the abandoning LSP will send a notice 60 days in advance of the exit date that they have 30 days to shop and select another LSP or they risk losing their local service. Customers who do not select a new LSP in the first 30 day period will receive a second notice,

⁶Implementation of Number Conservation Measures Granted to Pennsylvania by the Federal Communications Commission in its Order released March 31, 2000—NXX Code Reclamation, M-00001373 (August 22, 2000).

⁷New York State Public Service Commission Mass Migration Guidelines, Case No. 00-0188, revised January 2, 2003.

⁸Although New York's Guidelines are not regulations, they are the product of a collaborative process which culminated with a Commission order adopting the Guidelines. As such, under New York law, the Guidelines warrant mandatory compliance by the industry.

30 days before the exit date, notifying them that they have 20 days to select a new LSP or they will likely lose local service.

Abandonment Program Manager

Positions of the Parties

The New York Mass Migration Guidelines provide for the appointment of a program manager to coordinate the abandonment process. The program manager works with project managers from each of the parties involved in the abandonment process. The parties noted that this was a worthwhile feature of the New York process and supported its incorporation into the Pennsylvania Abandonment Process.

Disposition

We have included language in the proposed regulations requiring the abandoning LSP to appoint a program manager to coordinate the abandonment process among the other principle entities that would be involved. The program manager will be selected from the abandoning LSP or, if applicable, from the acquiring LSP. The program manager will coordinate with a project manager from the Commission and, depending on the circumstance, a project manager from the NSP default provider. (§ 63.1107)

Commission Posting Abandonment Information

Positions of the Parties

One provision of the New York Mass Migration Guidelines that was discussed and generally endorsed by the parties was that the Commission post information about an impending abandonment on its website. This feature would allow other service providers to be aware of the abandonment so that they may make a special effort to migrate any customers who may seek service with a new provider.

Disposition

We have adopted a provision that the Commission will post information of an impending abandonment on our website under the title "Local Service Telephone Provider Abandonment Notification." (§ 63.1108)

Default Provider Obligations

Positions of the Parties

The parties engaged in limited discussion about the concept of a default provider for local service. The OCA commented on numerous occasions about the need for default provider coverage in Pennsylvania.

Disposition

While we have not included provisions for a comprehensive default provider function in the proposed regulations, we have adopted somewhat limited provisions that mirror in part New York's guidelines in this area. In cases where the abandoning LSP serves its customers through resale using the NSP's facilities and customers have not chosen a new provider in a timely manner and have not been picked up by an acquiring carrier, we have designated the NSP as the default provider so that customers will not lose their local service. In recognition of the possibility that some customers may be returning to the NSP with an outstanding balance from a previous service period with the NSP, we have sought to limit the NSP's financial exposure by requiring that the NSP provide 30 days of provisional local service. During the 30-day provisional service period, customers who have an outstanding balance with the NSP must pay the arrearage or make arrangements with the NSP to do so. Failure to make full

payment or arrangements for payment could result in the loss of default provisional basic service from the NSP. The default provider provisions seek to strike a balance so that resale customers do not fall through the cracks and find themselves without local service and at the same time provide for the payment of outstanding arrears with the NSP. (§ 63.1110)

Abandonment Progress Reports

Positions of the Parties

The parties discussed a provision in the New York Mass Migration Guidelines whereby the Commission is provided with progress reports on the status of the customer migrations. The parties recommended that this provision also be incorporated into the Pennsylvania Abandonment Process.

Disposition

We have included a provision in the proposed regulations that requires the abandoning LSP to track the progress of the number of customers that have and have not migrated to a new LSP and to provide the Commission with status reports. The reports will enable the Commission to evaluate the need to potentially revise the abandoning carrier exit date should that become necessary. The progress reports could also be useful to the NSP default carrier by providing an estimate on the number of customers who may be coming to the NSP default provider for service. (§ 63.1111(a))

Second Customer Notification

Positions of the Parties

Another provision in the New York Mass Migration Guidelines that received support from the parties was having the abandoning LSP send a second customer notice to customers who have not taken action to select a new LSP. The purpose of a second notification would be to alert the customer to take action to select another LSP so that their local service would continue uninterrupted.

Disposition

We have incorporated a provision in the proposed regulations for the abandoning LSP to send a second customer notice under certain conditions. The second notice provision is applicable when customers have not selected another LSP within the 30 day shopping period and they will not be automatically transferred to the acquiring carrier or the NSP default provider at the close of the 30 day shopping period. (§ 63.1111(b))

The Commission requests that the parties provide comments as to whether the regulations should have a provision that notifies customers of the need to contact their regional and long distance carrier(s) about the change in LSP. The purpose of such a provision would be to insure that the change in LSP will not adversely affect their current regional long distance plan. The Commission seeks comments as to whether such a provision is necessary.

Conclusion

Accordingly, pursuant to sections 501 and 1501 of the Public Utility Code, 66 Pa.C.S. §§ 501 and 1501; to sections 201 and 202 of the Act of July 31, 1968, P. L. 769 No. 240, as amended, 45 P. S. §§ 1201—1202, and the associated regulations at 1 Pa. Code §§ 7.1, 7.2, and 7.5;

section 204(b) of the Commonwealth Attorneys Act, Act of October 15, 1980, P.L. 950, as amended, 71 P.S. 732.204(b); section 745.5 of the Regulatory Review Act, Act of June 25, 1982, P.L. 633, as amended, 71 P.S. § 745.5; section 612 of the Administrative Code of April 9, 1929, P.L. 177, as amended, 71 P.S. § 232, and the associated regulations at 4 Pa. Code §§ 7.231—7.234, we are considering adoption of the proposed regulations regarding the abandonment process for local service providers, as set forth in Annex A: *Therefore,*

It Is Ordered That:

1. This docket be opened to consider the proposed regulations set forth in Annex A.

2. The Secretary shall submit this Order and Annex A to the Office of Attorney General, for review as to form and legality, and to the Governor's Budget Office, for review of fiscal impact.

3. The Secretary shall submit this Order and Annex A for review and comment to the Independent Regulatory Review Commission and the Legislative Standing Committees.

4. The Secretary shall certify this Order and Annex A and deposit them with the Legislative Reference Bureau to be published in the *Pennsylvania Bulletin*.

5. An original and 15 copies of any comments referencing the docket number of the proposed regulations be submitted within 45 days of publication in the *Pennsylvania Bulletin* to the Pennsylvania Public Utility Commission, Attn.: Secretary, P.O. Box 3265, Harrisburg, PA 17105-3265. In addition, one copy in electronic format (Microsoft Word® 2002 or readable equivalent) on diskette shall be provided to the Secretary and a second copy on diskette shall be provided to the attention of Wayne Williams, Bureau of Consumer Services, at the same mailing address.

6. The contact persons for this rulemaking are Wayne Williams, Bureau of Consumer Services, 717-787-7137 (technical), and Terrence J. Buda, Assistant Counsel, Law Bureau, 717-787-5755 (legal). Alternate formats of this document are available to persons with disabilities and may be obtained by contacting Sherri DelBiondo, Regulatory Coordinator, Law Bureau, 717-772-4597.

7. A copy of this Order and Annex A shall be served upon AT&T Communications of Pennsylvania, Inc.; ATX-CoreComm; CTSI/Commonwealth Telephone; Choice One Communications of PA, Inc.; MCIWorldcom Network Services, Inc.; Metropolitan Telecommunications; North Pittsburgh Telephone Company; Sprint/United Telephone Company; Verizon Pennsylvania, Inc. and Verizon North, Inc.; Z-Tel Communications; the Pennsylvania Telephone Association; the Pennsylvania Cable Television Association; the Office of Consumer Advocate; the Office of Small Business Advocate; the Pennsylvania Utility Law Project; and the Office of Trial Staff; and the North American Numbering Plan Administrator.

JAMES J. MCNULTY,
Secretary

Fiscal Note: 57-232. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 52. PUBLIC UTILITIES

PART I. PUBLIC UTILITY COMMISSION

Subpart C. FIXED SERVICE UTILITIES

CHAPTER 63. TELEPHONE SERVICE

Subchapter N. LOCAL SERVICE PROVIDER ABANDONMENT PROCESS

Sec.	
63.301.	Statement of purpose and policy.
63.302.	Definitions.
63.303.	NSP embargo process.
63.304.	NSP termination process for wholesale customers.
63.305.	Initiation of abandonment.
63.306.	Abandoning LSP obligations for abandonment.
63.307.	Abandonment process management.
63.308.	Commission consideration and action.
63.309.	Acquiring LSP provisions and obligations.
63.310.	NSP obligations to serve as the default LSP.
63.311.	Abandoning LSP follow-up obligations.

§ 63.301. Statement of purpose and policy.

(a) *Purpose.* The purpose of this subchapter is to:

(1) Provide for an orderly process when a NSP intends to embargo and terminate service to a LSP.

(2) Provide for an orderly process when a LSP seeks to stop the provision of existing service to residential and business customers under the following circumstances:

(i) A NSP that provides part or all of the services necessary to provide local service is intending to terminate a LSP's service agreement.

(ii) The Commission has issued an order to revoke a LSP's certificate of public convenience.

(iii) A LSP has filed an application to abandon a certificate of public convenience for the provision of local service.

(3) Ensure that customers do not lose service when their LSP exits the market.

(4) Ensure that customers are provided ample notice and the opportunity to select a new LSP of their choice.

(5) Coordinate information flow and activities through a project management team.

(6) Ensure that an abandoning LSP provides sufficient network information so that customers are able to be migrated seamlessly.

(7) Ensure that an abandoning LSP coordinates with 9-1-1 service providers and the North American Numbering Plan Administrator.

(b) *Application.*

(1) This subchapter applies to a LSP that provides local service to residential or business customers.

(2) This subchapter applies to a NSP that provides wholesale telephone service to a LSP and intends to embargo or terminate the LSP's service.

§ 63.302. Definitions.

The following words and terms, when used in this subchapter, have the following meanings unless the context clearly indicates otherwise:

Abandon—To cease providing local service to existing customers. The term does not include discontinuance as a result of a customer's request or a temporary change in the provision of service that may arise from maintenance repair or failure of a LSP's equipment or facilities.

Abandoning LSP—A LSP that seeks to abandon providing local service to existing customers in a service area.

Acquiring LSP—A LSP that undertakes to provide local service to customers of the abandoning LSP after the abandoning LSP is permitted to alter or abandon providing local service.

CSR—Customer service record—Documentation indicating the customer's name, address, contact telephone number, quantity of lines, services, features and other information associated with a customer account.

Customer—The end-user recipient of telephone service provided by a LSP.

Default LSP—A NSP that assumes responsibility for the provision of local service when an abandoning LSP is a reseller of that NSP's service.

Embargo—The pretermination process in which a NSP refuses to process local service change requests or initiate new local service requests because the LSP that is reselling the NSP's services or buying the NSP's unbundled network elements (UNE) or unbundled network elements with platform (UNE-P) facilities is delinquent in paying for those services or facilities.

Exit date—The date upon which an abandoning LSP intends to cease providing telecommunications service.

LSP—Local service provider—A company, such as a local exchange carrier (LEC), that provides local service by resale, by unbundled network elements (with or without platform) or through its own facilities, or by a combination of these methods of providing local service to a customer.

(i) NLSP indicates "new" LSP, and OLSP indicates "old" LSP.

(ii) A LSP may also provide other telecommunications services, as well as nonjurisdictional services.

Local service—Telecommunications service within a customer's local calling area.

(i) The term includes the customer's local calling plan, dial tone line, touch-tone and directory assistance calls allowed without additional charge.

(ii) The term also includes services covered by the Federal Line Cost Charge, Pennsylvania Relay Surcharge, Federal Universal Service Fund Surcharge, Local Number Portability Surcharge, Public Safety Emergency Telephone Act (9-1-1) Fee and applicable Federal and State taxes.

Local service reseller—A LSP that resells another company's wholesale telephone services to provide local service to customers.

NSP—Network service provider—A carrier that interacts with LSPs and provides the facilities and equipment components needed to make up a customer's telecommunications service. A NSP may be referred to as an underlying carrier, and may also be a LSP.

Wholesale customer—A LSP that provides local service by resale or by unbundled network elements (with or without platform).

§ 63.303. NSP embargo process.

(a) *Authorized reasons for a NSP to embargo service.* A NSP may embargo service to a wholesale customer for the following reasons:

(1) Failure of the wholesale customer to pay an undisputed delinquent amount for services necessary to provide

customers with local service when that amount remains unpaid for 30 calendar days or more after the bill is rendered.

(2) Failure of the wholesale customer to abide by the terms and conditions of a Commission-approved interconnection agreement related to the provision of local service.

(3) Failure of the wholesale customer to comply with the terms of a payment agreement related to the provision of local service.

(4) Failure of the wholesale customer to comply with a Commission order related to the provision of local service.

(b) *Unauthorized reasons for a NSP to embargo service.* Unless specifically authorized by the Commission, a NSP may not embargo service for the following reasons:

(1) Failure of a wholesale customer to pay a charge unrelated to the provision of local service, for example, a charge for a LSP's own directory advertising in a NSP's yellow pages directory.

(2) Failure of a wholesale customer to pay a charge that was not previously billed prior to the due date of the current bill.

(3) Failure of a wholesale customer to pay a charge that is under a payment agreement prior to the date of payment set forth in the agreement.

(4) Failure of a wholesale customer to pay a charge that is at issue in a complaint before the Commission unless an embargo is specifically authorized by the Commission.

(5) Failure of a wholesale customer to pay a charge when there is an open complaint or dispute with a NSP about the accuracy or correctness of the charge. A wholesale customer is obligated to pay amounts not under complaint or dispute.

(c) Embargo notification provisions.

(1) At least 10 days prior to the initiation of an embargo, a NSP shall issue a written notice of embargo to the wholesale customer using the following procedures:

(i) A NSP shall send the embargo notice by first class mail unless other methods of delivery have been agreed to as part of the service agreement or are provided for in an applicable tariff.

(ii) A NSP shall address the embargo notice to the wholesale customer's designee.

(iii) A NSP shall send a copy of the embargo notice to the Secretary of the Commission and to the Commission's Bureau of Consumer Services.

(2) The embargo notice to a wholesale customer shall include the following:

(i) The date that the embargo shall begin. The beginning date given for the embargo may not be less than 10 days from the date the notice is mailed or otherwise delivered.

(ii) The amount owed which forms the grounds for the embargo.

(iii) The embargo issuing NSP's contact information to be used by a wholesale customer for payment of the NSP's bill.

(iv) A statement that if the bill is not paid or other acceptable arrangements are not made prior to the embargo date, the embargo shall commence on that date and a termination notice shall be issued.

§ 63.304. NSP termination process for wholesale customers.

(a) *Termination process initiation.*

(1) A NSP may initiate the termination process if a wholesale customer has not made payment in full or entered into a mutually acceptable written agreement for payment of outstanding debt by the embargo start date posted on the embargo notice.

(2) A NSP may not initiate the termination process for delinquent indebtedness which is the subject of an open dispute with the NSP or a pending complaint with the Commission filed by a wholesale customer.

(3) If during the termination process a wholesale customer initiates a properly filed dispute with a NSP or with the Commission, the NSP shall suspend the termination process unless it is based on other indebtedness that is not disputed.

(b) *Termination notice.*

(1) A termination notice from a NSP to a wholesale customer shall include the following:

(i) The date of the notification and reason for termination.

(ii) The date services shall be terminated unless payment is received or other mutually acceptable arrangements are made.

(iii) The amount owed, if applicable.

(iv) A contact telephone number and name for the NSP.

(2) A NSP shall provide a copy of the notice to the Commission's Secretary's Bureau, Bureau of Consumer Services and Law Bureau.

§ 63.305. Initiation of abandonment.

A LSP shall initiate abandonment of service when a NSP initiates the termination of a LSP's service, when the Commission issues an order to revoke a LSP's certificate of public convenience or when a LSP has made proper application to the Commission to abandon service.

(1) *NSP initiation.*

(i) A NSP that intends to terminate the service of a LSP that serves residential or business customers shall provide prior notice to the LSP and the Commission electronically and by first class mail 110 calendar days in advance of the scheduled termination.

(ii) The Commission may require a NSP to extend a LSP's termination date until the LSP properly notifies its customers.

(2) *Commission initiation.* The Commission may initiate the abandonment of a LSP's service through the issuance of a Commission order that revokes the LSP's certificate of public convenience.

(3) *LSP initiation.* A LSP may initiate the voluntary abandonment of some or all of its local service customers by filing with the Commission an application to abandon service to some or all of its existing customers. A LSP shall file an application to abandon service not less than 90 calendar days prior to the date when financial or operational data indicates there is a likelihood that the LSP may be unable to provide service to some or all of its customers.

§ 63.306. Abandoning LSP obligations for abandonment.

(a) *General.* Upon receiving a termination notice from a NSP, or upon receiving a Commission order notifying a

LSP of an effective date for revoking its certificate of public convenience, or upon a LSP's voluntary filing of an application to abandon service, the abandoning LSP shall make a good faith effort to secure an acquiring carrier to serve the customers it plans to abandon.

(b) *Abandonment plan.* The abandoning LSP shall file an abandonment plan with the Commission not less than 90 calendar days in advance of abandoning service. The abandonment plan shall contain the following information:

(1) An identification of the telecommunications services, either facilities-based or through resale, to be abandoned or curtailed in the associated service territory.

(2) An explanation of reasons for the abandonment of service.

(3) A detailed outline of the procedures a LSP shall use to ensure continuation of service for its affected customers. The abandoning LSP shall demonstrate that the abandonment will not deprive the public of necessary telecommunications services.

(4) The notices required by this section.

(5) A plan for an abandoning LSP to provide a list of current customers to the Commission within 60 calendar days prior to the exit date.

(6) A draft of an initial letter to be sent to customers.

(7) A plan for follow-up notification arrangements—for example, a second letter, phone calls, bill inserts, e-mail, and the like.

(8) A proposed exit date if the abandonment is initiated by termination by a NSP or by Commission order. The exit date may not be later than the termination date provided by the NSP or the date the certificate of public convenience is to be revoked.

(9) A date when customers shall select a carrier.

(10) Contact names and telephone numbers for a LSP's program manager, the regulatory contact and other pertinent contacts, for example, the contact for customer service records (CSR) or provisioning contacts.

(11) The arrangements made for an acquiring carrier.

(12) The procedures to be taken with the North American Numbering Plan Administrators (NANPA) to transfer NXX codes or thousand number blocks (if applicable) while preserving number portability for numbers within the code.

(13) The name of the NSP and the current customer serving arrangements, for example, UNE-P (x carrier), resale (y carrier), UNE-L (x carrier) or Full Facilities.

(14) An identification of customers when the abandoning carrier is the only provider of facilities to a customer or group of customers.

(15) The number of customers impacted.

(16) The format of the CSRs, a statement of what data elements are in the CSRs and a statement of how the CSRs will be made available to other carriers.

(17) The details of a transfer of assets or control that requires Commission approval.

(18) A request to modify or cancel tariffs.

(19) A plan for processing customer deposits, credits and termination liabilities or penalties.

(20) A plan for unlocking the E-9-1-1 records.

(21) A plan for maintaining toll-free telephone access to an abandoning LSP's call center (including customer service and billing records) so that a customer is able to contact the LSP to inquire about or dispute final bills and refunds.

(22) When the default LSP provisions apply, a plan for providing the default LSP with the CSRs of customers who will be migrated to each default carrier. The CSRs shall be provided to the default LSP in electronic format 28 days prior to the exit date so that the default LSP shall notify the migrating customers of the terms and conditions of service.

(c) *Transfer of customers' 9-1-1/E-9-1-1 records.*

(1) *Transfers to a NLSP.* An abandoning LSP shall unlock all of its telephone numbers in the 9-1-1/E-9-1-1 records to provide a NLSP with access to the abandoning LSP's customers' 9-1-1/E-9-1-1 records. The abandoning LSP shall unlock the 9-1-1/E-9-1-1 records in compliance with the National Emergency Numbering Association's (NENA) standards.

(2) *Transfers after abandonment.* An abandoning LSP shall submit a letter to the appropriate 9-1-1/E-9-1-1 service provider authorizing the 9-1-1/E-9-1-1 service provider to unlock remaining 9-1-1/E-9-1-1 records after the LSP has abandoned the market. The abandoning LSP shall provide this letter at least 30 days prior to abandoning the market.

(d) *Notification to the industry and NANPA.*

(1) *Industry abandonment notice.* An abandoning LSP shall provide written notice to:

(i) Telecommunications corporations providing the abandoning LSP with essential facilities or services or UNEs that affect the abandoning LSP's customers.

(ii) Telecommunications corporations providing the abandoning LSP with resold telecommunications services, if resold service is part of the telecommunications services provided to the abandoning LSP's affected customers.

(2) *NANPA.* An abandoning LSP shall provide written notice to:

(i) The NANPA, when applicable, authorizing the release of all assigned telephone numbers to other telecommunications companies and releasing all unassigned telephone numbers to the number administrator.

(ii) The NANPA, authorizing the release of all assigned telephone numbers to the succeeding carriers not less than 66 days prior to the abandonment.

(3) The notice shall include identification of all working telephone numbers assigned to the customers, identification of all unassigned or administrative numbers available for reassignment to other providers and the date the unassigned telephone numbers shall be available for reassignment.

(4) The abandoning LSP shall authorize the release of each individually assigned customer telephone number to the subsequent provider selected by the customer. The abandoning LSP may not abandon NXX codes or thousand block numbers if a number within the relevant range of numbers has not been completely ported.

(e) *Abandoning LSP notification to customers.*

(1) The abandoning LSP (and acquiring carrier if applicable) shall notify customers by letter not less than 60 days in advance of the exit date.

(2) The abandoning LSP shall provide customers with a list of the services (local basic, regional toll, long distance toll) that the abandoning LSP is currently providing to the customer. The abandoning LSP shall direct customers to choose a service provider to replace the service that it has been providing.

(3) If applicable, the abandoning LSP shall notify customers that if they do not act to obtain service from another LSP, the abandoning LSP shall automatically transfer them to a default carrier for local service provision.

(4) The notice of pending abandonment of service to residential and business customers shall contain the following:

(i) A printed teaser on the envelope and the notice containing the words "Important Notice, Loss of Local Telephone Service" printed in bold letters with a font size of at least 14 points, conspicuously displayed on the front of the envelope to attract the attention of the reader.

(ii) A statement on the notice: "At this time, (LSP name) provides you with local telephone service."

(iii) A statement on the notice: "As of (the exit date) (LSP name) will no longer provide your local telephone service and you must take action."

(iv) A statement on the notice: "To prevent the loss of your local telephone service, you must select another local telephone service provider on or before (list a specific date 30 calendar days prior to the exit date). If you act by this date there will be enough time for the new local service provider you choose to start your new service before your current service ends."

(v) A statement on the notice: "Please remember that customers may choose the provider of their local telecommunications service. You may select any company that is offering service in your area."

(vi) A statement on the notice: "This is an important notice (the word "important" in bold) about the loss of your local telephone service. If you have any questions or need more information, contact (LSP contact information including a toll-free telephone number)."

(vii) A list of alternative LSPs, including contact numbers and addresses, that serve the customer's area.

(viii) Information to customers outlining the procedure for obtaining refunds of credits and deposits, obtaining final bills and addressing questions or complaints.

§ 63.307. Abandonment process management.

(a) The abandoning LSP shall appoint a program manager to coordinate the abandonment process. The program manager shall be selected from the abandoning LSP or, if applicable, the acquiring LSP.

(b) The program manager shall be accountable to each of the parties involved in the abandonment. The individual parties involved in the migration may be:

- (1) The abandoning LSP.
- (2) The acquiring LSP.
- (3) The default LSP.
- (4) The Commission.

(c) The parties involved in the abandonment shall appoint a project manager who will work with the program manager to ensure that the abandonment process flows in a seamless manner.

§ 63.308. Commission consideration and action.

(a) The Commission will post information of an impending abandonment on its website under "Local Service Telephone Provider Abandonment Notification."

(b) If necessary, Commission staff may establish an industry conference call to address potential problem areas and procedures with the abandoning LSP, as well as with the acquiring, default or other LSPs as applicable.

§ 63.309. Acquiring LSP provisions and obligations.

(a) An acquiring LSP shall notify customers by letter of the pending change of service providers 60 days in advance of the exit date.

(b) An acquiring LSP shall notify customers in writing of its rates and terms and conditions of service 60 days in advance of the exit date.

(c) An abandoning LSP and acquiring LSP may change the customer's local service provider without being considered to have engaged in slamming if the acquiring LSP does not change a customer's preferred interexchange carrier designation without the customer's authorization.

(d) An abandoning LSP shall reimburse the new provider (customer selected, acquiring carrier or default carrier) for the carrier change charges. The provision in this subsection does not relieve telecommunications providers of any requirements imposed by the Federal Communications Commission (FCC), including FCC anti-slamming rules and 47 CFR 63.71 (relating to procedures for discontinuance, reduction or impairment of services by domestic carriers).

(e) If an acquiring LSP determines that it will be unable to provide service to a customer by the abandoning LSP's exit date, the acquiring LSP shall notify the Commission, the customer and the abandoning LSP within 24 hours of the determination. If the customer is unable to select another available LSP, the abandoning LSP shall continue to provide service until the date on which a LSP is able to provide service or a date ordered by the Commission, whichever is earlier.

§ 63.310. NSP obligations to serve as the default LSP.

(a) *Default LSP.* When the following conditions are met, a NSP becomes the default LSP and shall continue to provide local service to customers who will not be served by an acquiring LSP and who have not selected another LSP:

(1) An abandoning LSP serves its customers through resale using the facilities of a NSP.

(2) There is no acquiring LSP or an acquiring LSP is not acquiring all customers from the abandoning LSP.

(3) One or more customers have not chosen a new LSP within the selection period.

(b) *Notification to customers.*

(1) A default LSP shall send a letter to customers who will be switched from an abandoning LSP to the default LSP 20 days prior to the exit date.

(2) The 20-day letter shall advise the customers that their service is being switched on a specific date and notify customers of the rates and terms and conditions of service.

(c) *Notification and service to customers with outstanding balances.*

(1) When a customer being switched to a default LSP has an outstanding balance for local service with the default LSP from a service period within the last four years, the default LSP shall provide provisional local service for at least 30 days from the exit date.

(2) A default LSP shall notify a customer that the customer has an outstanding balance, the amount of the balance and the time period over which the balance accrued.

(3) A default LSP shall inform a customer that the default carrier is obligated to provide local service only until (list a specific date that is 30 calendar days from the exit date) unless the customer pays the outstanding local service balance or makes a payment arrangement.

(4) Information shall be contained in the 20-day letter regarding how a customer may contact a default provider to make payment or enter into a payment arrangement.

(5) A customer who, upon notification of the customer's outstanding balance for local service, fails to make payment or enter into a payment arrangement for the outstanding balance may be subject to suspension and termination action by a default LSP after expiration of the 30-day provisional local service period.

§ 63.311. Abandoning LSP follow-up obligations.

(a) An abandoning LSP shall track the progress of migrations and provide Commission staff with progress reports on the number of customers that have and have not migrated to a new LSP. The frequency of the updates will vary with the magnitude of the mass migration and will be determined by the Commission on a case by case basis.

(b) An abandoning LSP shall send a second abandonment notice to a customer who is not subject to acquisition or default service with a NSP and has not taken action to select a new LSP. The service notice shall be sent 30 days before the exit date. The form of the second notice is left to the discretion of the abandoning LSP and may be the following:

(1) First class mail.

(2) A telephone call.

(3) A bill insert.

(4) Any other means of direct contact with the customer.

[Pa.B. Doc. No. 04-559. Filed for public inspection April 2, 2004, 9:00 a.m.]

NOTICES

DEPARTMENT OF BANKING

Action on Applications

The Department of Banking, under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 19, 1990 (P. L. 834, No. 198), known as the Credit Union Code, has taken the following action on applications received for the week ending March 23, 2004.

BANKING INSTITUTIONS

Holding Company Acquisitions

<i>Date</i>	<i>Name of Corporation</i>	<i>Location</i>	<i>Action</i>
3-18-04	First Commonwealth Financial Corporation, Indiana, to acquire 100% of GA Financial Inc., Pittsburgh	Indiana	Approved
3-22-04	Pitcairn Financial Group, Inc., Jenkintown, to acquire 100% of the shares of common stock of Pitcairn Trust Company, Jenkintown, under section 112 of the Banking Code of 1965	Jenkintown	Approved

Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
3-18-04	First Commonwealth Bank, Indiana, and Great American Federal, Pittsburgh Surviving Institution— First Commonwealth Bank, Indiana	Indiana	Approved
3-18-04	Mid Penn Bank Millersburg Dauphin County	Millersburg	Filed

Purchase of certain assets/assumption of certain liabilities of one branch of Vartan National Bank, Dauphin

Located at:

Allegheny and Swatara Streets
Dauphin
Dauphin County

Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
3-18-04	Irwin Bank & Trust Company Irwin Westmoreland County	20 North Pennsylvania Avenue Suite 204 Greensburg Westmoreland County	Approved
3-22-04	First Financial Bank Downingtown Chester County	16 East Market Street West Chester Chester County	Approved
3-23-04	Jersey Shore State Bank Jersey Shore Lycoming County	2050 North Atherton Street State College Centre County	Approved

Branch Relocations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
3-19-04	Fulton Bank Lancaster Lancaster County	<i>To:</i> State Hill Road and Van Reed Road Wyomissing Spring Township Berks County <i>From:</i> 2101 State Hill Road Wyomissing Spring Township Berks County	Approved
3-19-04	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	<i>To:</i> 11361 Route 30 North Huntingdon Westmoreland County <i>From:</i> 12120 Route 30 North Huntingdon Westmoreland County	Filed

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS

No activity.

A. WILLIAM SCHENCK, III,
Secretary

[Pa.B. Doc. No. 04-560. Filed for public inspection April 2, 2004, 9:00 a.m.]

Freedom Credit Union Community Charter Conversion Application; Doc. No. APP-2003-01; Philadelphia Telco Credit Union (d/b/a Trumark Financial Credit Union) Community Charter Conversion Application; Doc. No. APP-2003-02; Corry-Jamestown Credit Union Community Charter Conversion Application; Doc. No. APP-2004-01

Hearing and Procedure

Notice is hereby given of a formal administrative hearing or hearings to be held by the Pennsylvania Department of Banking (hereinafter the "Department") in response to protests filed in the above-captioned matter, pursuant to 17 Pa.C.S. § 503(a.2)(1) (relating to the Department's authority to hold hearings under the Credit Union Code) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law). Notice is also hereby given that the above three proceedings may be consolidated.

Freedom Credit Union has filed an application to convert to a community charter which would encompass Chester, Delaware, Montgomery, Bucks, and Philadelphia Counties in Pennsylvania and Gloucester, Camden and Burlington Counties in New Jersey. Philadelphia Telco Credit Union has filed an application to convert to a community charter which would encompass Chester, Delaware, Montgomery, Bucks, and Philadelphia Counties. Corry-Jamestown Credit Union has filed an application to convert to a community charter which would encompass a portion of six Pennsylvania counties Erie, Crawford, Venango, Warren, Mercer, and Forest and

Chautauqua County in New York. The Department has not previously been presented with applications for community charters of similar geographic scope and authority. Therefore, due to the novel and complex issues presented by these applications, and the interest and concerns expressed by the banking industry, the Department has determined that the hearing and other procedural matters shall be governed by the General Rules of Administrative Practice and Procedure, which are found at 1 Pa. Code Part II. This determination has been made in accordance with the Department's retained authority to adopt different procedures that it deems necessary and reasonable in acting upon a particular application, pursuant to the Department's hearing regulations at 10 Pa. Code § 3.14. Further, to the extent that the Credit Union Code at 17 Pa.C.S. § 101 et seq. is at issue, the provisions of 2 Pa.C.S. Chapter 5 Subchapter A and Chapter 7 Subchapter A apply.

Please be advised that all proceedings in the above-captioned matters are confidential pursuant to Section 302.A of the Department of Banking Code, 71 P.S. § 733-302.A, and therefore access to records of and attendance at such proceedings is limited to the applicants, parties granted intervention status and their counsel.

Petitions to intervene must be filed by interested parties by April 16, 2004.

A. WILLIAM SCHENCK, III,
Secretary

[Pa.B. Doc. No. 04-561. Filed for public inspection April 2, 2004, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, Actions and Special Notices

APPLICATIONS

THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT APPLICATIONS FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY MANAGEMENT (WQM) PERMITS

This notice provides information about persons who have applied for a new, amended or renewed NPDES or WQM permit, a permit waiver for certain stormwater discharges or submitted a Notice of Intent (NOI) for coverage under a general permit. The applications concern, but are not limited to, discharges related to industrial, animal or sewage waste, discharges to groundwater, discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities or concentrated animal feeding operations (CAFOs). This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section I	NPDES	Renewals
Section II	NPDES	New or amendment
Section III	WQM	Industrial, sewage or animal waste; discharge into groundwater
Section IV	NPDES	MS4 individual permit
Section V	NPDES	MS4 permit waiver
Section VI	NPDES	Individual permit stormwater construction
Section VII	NPDES	NOI for coverage under NPDES general permits

For NPDES renewal applications in Section I, the Department of Environmental Protection (Department) has made a tentative determination to reissue these permits for 5 years subject to effluent limitations and monitoring and reporting requirements in their current permits, with appropriate and necessary updated requirements to reflect new and changed regulations and other requirements.

For applications for new NPDES permits and renewal applications with major changes in Section II, as well as applications for MS4 individual permits and individual stormwater construction permits in Sections IV and VI, the Department, based upon preliminary reviews, has made a tentative determination of proposed effluent limitations and other terms and conditions for the permit applications. These determinations are published as proposed actions for comments prior to taking final actions.

Unless indicated otherwise, the EPA Region III Administrator has waived the right to review or object to proposed NPDES permit actions under the waiver provision in 40 CFR 123.24(d).

Persons wishing to comment on an NPDES application are invited to submit a statement to the regional office noted before an application within 30 days from the date of this public notice. Persons wishing to comment on a WQM permit application are invited to submit a statement to the regional office noted before the application within 15 days from the date of this public notice. Comments received within the respective comment periods will be considered in the final determinations regarding the applications. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based.

The Department will also accept requests for a public hearing on applications. A public hearing may be held if the responsible office considers the public response significant. If a hearing is scheduled, a notice of the hearing will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation within the relevant geographical area. The Department will postpone its final determination until after a public hearing is held.

Persons with a disability who require an auxiliary aid, service, including TDD users, or other accommodations to seek additional information should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

I. NPDES Renewal Applications

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0060470 Sewage	Geisinger Foundation/Marworth Lily Lake Road Waverly, PA 18471	Lackawanna County North Abington Township	UNT to Ackerly Creek 4F	Y

<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N ?</i>
PA0061051 Sewage	Farda Associates, Inc. c/o The Summit Resort P. O. Box 130 Tannersville, PA 18372	Monroe County Pocono Township	UNT to Pocono Creek 1E	Y

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.

<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0087939 IW	Berks Fuel Storage, Inc. 1248 Wayne Avenue Reading, PA 19601	Berks County Muhlenberg Township	Laurel Run 3-C	Y
PAS104507R	Edge Wood Estates Inc. P. O. Box 577 Milroy, PA 17063	Mifflin County Brown Township	UNT to Tea Creek HQ/CWF	Y

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0032441 Sewerage	Department of Conservation and Natural Resources Black Moshannon State Park 4216 Beaver Road Philipsburg, PA 16866-9519	Centre County Rush Township	Black Moshannon 8D	Y
PA0113301 Industrial	Mansfield Borough Municipal Authority 19 E. Wellsboro Street Mansfield, PA 16933-1132	Tioga County Richmond Township	Lambs Creek 4A	Y
PA0035777 IW and Sewerage	Hoeganaes Corporation P. O. Box 37 Paradise Road Watsontown, PA 17777	Northumberland County Delaware Township	Unnamed tributary to Muddy Run 10D	Y

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0222721	Squaw Valley Woodlands 221 Bryron Center Road Emlenton, PA 16373	Allegheny Township Butler County	Unnamed tributary to Carrs Run 16-G	Y
PA0100013	National Fuel Gas West County Service Center P. O. Box 2081 Erie, PA 16512	Fairview Township Erie County	Unnamed tributary to Elk Creek 15-EC	Y

II. Applications for New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Applications

Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.

PA0058785, Sewage, SIC 4952, **Stanley Wannop and Elaine Gerwig**, 196 Springton Road, Glenmoore, PA 19343. This proposed facility is in West Brandywine Township, **Chester County**.

Description of Proposed Activity: Proposed discharge of treated sewage from a single residence sewage treatment plant.

The receiving stream, unnamed tributary to Culbertson Run, is in the State Water Plan watershed 3H and is classified for HQ TSF. The nearest downstream public water supply intake for the Downingtown Municipal Water Authority is on the East Branch Brandywine Creek, 7.5 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 400 gpd.

<i>Parameters</i>	<i>Instantaneous Minimum (mg/l)</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅				
(5-1 to 10-31)		10		20
(11-1 to 4-30)		20		40
Suspended Solids		10		20
Ammonia (as N)				
(5-1 to 10-31)		3.0		6.0
(11-1 to 4-30)		9.0		18.0
Fecal Coliform		200 colonies/100 ml as a geometric average		
Dissolved Oxygen		minimum of 3.0 mg/l at all times		
pH		within limits of 6.0 to 9.0 standard units at all times		

PA0058793, Sewage, SIC 4952, **Greg Leeber and Tracy Sabol**, 1285 Parkersville Road, Kennett Square, PA 19348. This proposed facility is in Pennsbury Township, **Chester County**.

Description of Proposed Activity: Proposed discharge of treated sewage from a single residence sewage treatment plant.

The receiving stream, unnamed tributary to Bennetts Run, is in the State Water Plan watershed 3H and is classified for WWF. There are no downstream public water supply intakes between the proposed discharge and the PA/DE border.

The proposed effluent limits for Outfall 001 are based on a design flow of 400 gpd.

<i>Parameters</i>	<i>Instantaneous Minimum (mg/l)</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅				
(5-1 to 10-31)		10		20
(11-1 to 4-30)		20		40
Suspended Solids		10		20
Ammonia (as N)				
(5-1 to 10-31)		3.0		6.0
(11-1 to 4-30)		9.0		18.0
Fecal Coliform		200 colonies/100 ml as a geometric average		
Dissolved Oxygen		minimum of 3.0 mg/l at all times		
pH		within limits of 6.0 to 9.0 standard units at all times		

PA0050547, Sewage, SIC 4952, **Robert Fitzgerald**, 2021 Spring Road, Suite 450, Oak Brook, IL 60523. This proposed facility is in West Brandywine Township, **Chester County**.

Description of Proposed Activity: Discharge of 0.0375 mgd gpd treated sewage from the Indian Run Mobile Home Park, Indian Run Creek, West Brandywine Township, Chester County.

The receiving stream, Indian Run Creek, is in the State Water Plan watershed 3H and is classified for HQ CWF, aquatic life, water supply and recreation. The nearest downstream public water supply intake for the Downingtown Municipal Water Authority is on Indian Run Creek, 9.5 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.0375 MGD.

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>	
	<i>Average Monthly</i>	<i>Instantaneous Minimum</i>	<i>Average Monthly</i>	<i>Instantaneous Maximum</i>
Flow	Monitor and Report			
CBOD ₅				
(5-1 to 10-31)	3.13		10	20
(11-1 to 4-30)	626		20	40
Total Suspended Solids	626		20	40
Ammonia as N				
(5-1 to 10-31)	0.94		3.0	6.0
(11-1 to 4-30)	2.81		9.0	18.0
Phosphorus as P				
(4-1 to 10-31)	0.31		1.0	2.0
Fecal Coliform			200#/100ml	
Dissolved Oxygen		5.0		
pH (STD Units)		6.0		9.0
Total Residual Chlorine			0.4	1.0

In addition to the effluent limits, the permit contains the following major special conditions: operator notification; abandon STP; remedial measures; no stormwater; property rights; small stream discharge; change in ownership; minimize CL2; proper sludge disposal; 1 max. limit; 2/month monitoring; and lab certification.

PA0053015, SEW, SIC 58, **Country Place Restaurant**, 1007 Route 313, Perkasio, PA 18944. This proposed facility is in East Rockhill Township, **Bucks County**.

Description of Proposed Activity: Renewal of an NPDES Permit to discharge 4,320 gpd of treated wastewater from the Country Place Restaurant.

The receiving stream, unnamed tributary to Three Mile Run, is in the State Water Plan watershed 2D—Three Mile Run and is classified for TSF. The nearest downstream public water supply intake for PECO—Limerick Station is on the Delaware River, 18.5 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 4,320 gpd.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅		
(5-1 to 10-31)	10	20
(11-1 to 4-30)	20	40
Total Suspended Solids	30	60
Ammonia (as N)		
(5-1 to 10-31)	3	6
(11-1 to 4-30)	9	18
Phosphorus (as P)	0.5	1.0
Total Residual Chlorine	0.16	0.38
Fecal Coliform	200 colonies/100 ml as a geometric average	
Dissolved Oxygen	minimum of 4.0 mg/l at all times	
pH	within limits of 6.0—9.0 standard units at all times	

PA0011070, Industrial Waste, SIC 2521 and 2222, **Knoll, Inc.**, 1235 Water Street, P. O. Box 157, East Greenville, PA 18041. This proposed facility is in Upper Hanover Township, **Montgomery County**.

Description of Proposed Activity: Discharge of treated domestic, industrial wastewater and stormwater.

The receiving stream, Perkiomen Creek, is in the State Water Plan watershed 3E and is classified for TSF. The nearest downstream public water supply intake for the East Greenville Borough Water Plant is on the Perkiomen Creek, 0.65 mile below the point of discharge.

The following proposed effluent limits for Outfall 001, are based on a design flow of 73,000 gallons per day:

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		<i>Instantaneous Maximum (mg/l)</i>
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	
Temperature (°F)					110
Total Suspended Solids			30	60	75
Phosphorus as P			0.5		1.2
pH (STD)			6.0 Min.		9.0

The following proposed effluent limits for an internal monitoring point MP 101, are based on a design flow of 1,900 gallons per day:

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		<i>Instantaneous Maximum (mg/l)</i>
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	
Oil and Grease			15		30
Cadmium, Total			0.15	0.30	0.38
Chromium, Total			0.64	1.27	1.59
Copper, Total			0.50	1.0	1.25
Cyanide, Total			0.32	0.64	0.80
Lead, Total			0.20	0.40	0.50
Nickel, Total			2.38	4.76	5.95
Silver, Total			0.16	0.32	0.40
Zinc, Total			1.48	2.96	3.70
N-Nitrosodi-Methylamine			0.0002	0.0005	0.0006
Total Toxic Organics				2.13	

The following proposed effluent limits for an internal monitoring point MP 201, are based on a discharge rate of 40,000 gallons per day:

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		<i>Instantaneous Maximum (mg/l)</i>
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	
CBOD ₅			25	40	50
Total Suspended Solids			30	45	60
Ammonia-Nitrogen					
(5-1 to 10-31)			10.0		20.0
(11-1 to 4-30)			20.0		40.0

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum (mg/l)</i>
Fecal Coliform			200 col/100 mL		
Total Residual Chlorine			0.5		1.3

The following proposed effluent limits for Outfall 002, are based on stormwater discharge from the fabrication area:

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅				Monitor	
Total Suspended Solids				Monitor	
Total Phosphorus as P				Monitor	
pH				Monitor	
COD				Monitor	
Oil and Grease				Monitor	
Total Kjeldahl Nitrogen				Monitor	
Iron Dissolved				Monitor	

The following proposed effluent limits for Outfall 003, are based on stormwater and noncontact cooling water discharge from the detention basin near Lubin building:

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅				Monitor	
Total Suspended Solids				Monitor	
Total Phosphorus as P				Monitor	
pH				Monitor	
COD				Monitor	
Oil and Grease				Monitor	
Total Kjeldahl Nitrogen				Monitor	
Iron Dissolved				Monitor	
Temperature (°F)					110

In addition to the effluent limits, the permit contains the following major special conditions: DMR to the Department; remedial measures; sludge disposal; chemical additives; test methods; TMDL limits; operations and maintenance plan; and laboratory certification.

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.

PA0247383, Industrial Waste, SIC Code 5411, **Automotion Servicer**, 220 Spohn Road, Sinking Spring, PA 19608-1736. This facility is in Cumru Township, **Berks County**.

Description of activity: Issuance of an NPDES permit for a new discharge of treated industrial waste from a groundwater remediation system.

The receiving stream, a drainage swale that ultimately discharges to Wyomissing Creek, is in Watershed 3-C and classified as a dry stream discharge. The nearest downstream public water supply intake for the Pottstown Water Authority is on the Schuylkill River, approximately 15 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 based on a design flow of 0.072 MGD are:

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow	Monitor and Report	Monitor and Report	XXX	XXX	XXX
pH (S. U.)			from 6.0 to 9.0 inclusive		
Benzene	XXX	XXX	0.001	XXX	0.002
Ethylbenzene	XXX	XXX	Monitor and Report	XXX	Monitor and Report
Toluene	XXX	XXX	Monitor and Report	XXX	Monitor and Report
Xylene	XXX	XXX	Monitor and Report	XXX	Monitor and Report
Total BTEX	XXX	XXX	0.100	XXX	0.200
MTBE	XXX	XXX	Monitor and Report	XXX	Monitor and Report

Individuals may make an appointment to review the Department files on this case by calling the File Review Coordinator at (717) 705-4732.

The EPA waiver is in effect.

PA0246760, Industrial Waste, NAIC 2213, **Franklin County General Authority**, 5121A Coffey Avenue, Chambersburg, PA 17201. This facility is in Greene Township, **Franklin County**.

Description of activity: Issuance of an NPDES permit for a new discharge of treated industrial waste.

The receiving stream, dry swale to an unnamed tributary Conococheague Creek, is in Watershed 13-C and classified for WWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for Hagerstown, MD is on the Potomac River. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 based on a design flow of 0.091 MGD are:

<i>Parameters</i>	<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Total Suspended Solids	30	60	75
Iron (Total)	2	4	5
Aluminum (Total)	4	8	10
Manganese	1	2	2.5
pH		6—9 at all times	
Total Residual Chlorine	0.5		1.0

Individuals may make an appointment to review the Department files on this case by calling the File Review Coordinator at (717) 705-4732.

The EPA waiver is in effect.

PA0026280, Sewage, **Lewistown Borough**, Two East Third Street, Lewistown, PA 17044-1799. This facility is in Lewistown Borough, **Mifflin County**.

Description of activity: Renewal of an NPDES permit for existing discharge of treated sewage.

The receiving stream, Juniata River, is in Watershed 12-A and classified for WWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for Newport Borough is on the Juniata River, approximately 35 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 for a design flow of 2.818 MGD are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	40	50
Total Suspended Solids	30	45	60
Total Residual Chlorine	0.87		1.74
Dissolved Oxygen		minimum of 5.0 at all times	
pH		from 6.0 to 9.0 inclusive	
Fecal Coliform (5-1 to 9-30)		200/100 ml as a geometric average	
(10-1 to 4-30)		100,000/100 ml as a geometric average	

In addition to the effluent limits, the permit contains the following major special conditions: a Part C condition pertaining to stormwater monitoring and best management practices; and a Part C condition pertaining to active whole effluent toxicity monitoring.

Individuals may make an appointment to review the Department files on this case by calling the File Review Coordinator at (717) 705-4732.

The EPA waiver is not in effect.

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

PA0218791, Industrial Waste, SIC, 4953, **U. S. Army Corps of Engineers—Pittsburgh District**, 1000 Liberty Avenue, Pittsburgh, PA 15222. This application is for issuance of an NPDES permit to discharge treated stormwater from dredging operations in Carroll Township, **Washington County**.

The following effluent limitations are proposed for discharge to the receiving waters, the Monongahela River, classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply is the Pennsylvania American Water Company on the Monongahela River, 9.1 miles below the discharge point.

Outfall 001: new discharge, design flow of 0.325 mgd.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow	Monitor and Report				
TSS			30		60
Oil and Grease			Monitor and Report		
Chromium			Monitor and Report		
Lead			Monitor and Report		
Zinc			Monitor and Report		
Iron			3.5	7.0	
Manganese			2.0	4.0	
Benzene			Monitor and Report		
Ethylbenzene			Monitor and Report		
Toluene			Monitor and Report		
pH (S. U.)	not less than 6.0 nor greater than 9.0				

Outfall 002: new discharge, design flow of 3.7 MGD

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (MGD)	Monitor and Report				
TSS			30		60
Oil and Grease			Monitor and Report		
Fluoride			Monitor and Report		
Sulfates			Monitor and Report		
Antimony			Monitor and Report		
Cadmium			Monitor and Report		
Chromium			Monitor and Report		
Copper			Monitor and Report		
Mercury			Monitor and Report		
Nickel			Monitor and Report		
Selenium			Monitor and Report		
Zinc			Monitor and Report		
Aluminum			Monitor and Report		
Iron			3.5		7.0
Manganese			2.0		4.0
pH (S.U.)	not less than 6.0 nor greater than 9.0				

The EPA waiver is in effect.

PA0028525, Sewage, **Bell Acres Municipal Sewage Authority**, Municipal Building, 1151 Camp Meeting Road, Sewickley, PA 15143. This application is for renewal of an NPDES permit to discharge treated sewage from the Bell Acres Sewage Treatment Plant No. 1 in Bell Acres Borough, **Allegheny County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as an unnamed tributary of Little Sewickley Creek, which are classified as a HQ TSF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Arco Chemical Company BV Plant.

Outfall 001: existing discharge, design flow of 0.016 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	10	15		20
Suspended Solids	25	37.5		50
Ammonia Nitrogen				
(5-1 to 10-31)	1.5	2.3		3
(11-1 to 4-30)	4.5	6.8		9
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine	0.06			0.13
Dissolved Oxygen	not less than 5 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0030376, Sewage, **Bell Acres Municipal Sewage Authority**, Municipal Building, R. D. 3, Camp Meeting Road, Sewickley, PA 15143. This application is for renewal of an NPDES permit to discharge treated sewage from Bell Acres STP No. 3 in Bell Acres Borough, **Allegheny County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as unnamed tributary of Little Sewickley Creek, which are classified as a HQ TSF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Arco Chemical Company BV Plant.

Outfall 001: existing discharge, design flow of 0.008 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	10	15		20
Suspended Solids	25	37.5		50
Ammonia Nitrogen				
(5-1 to 10-31)	1.5	2.3		3
(11-1 to 4-30)	4.5	6.8		9
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine	1.4			3.3
Dissolved Oxygen	not less than 5 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0041289, Sewerage, **Uniontown Area School District**, 23 East Church Street, Uniontown, PA 15401. This application is for renewal of an NPDES permit to discharge treated sewage from the Franklin Elementary School STP in Franklin Township, **Fayette County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as unnamed tributary of Virgin Run Lake, which are classified as a HQ TSF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the McKeesport Municipal Water Authority.

Outfall 001: existing discharge, design flow of 0.0039 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅				
(5-1 to 10-31)	20			40
(11-1 to 4-30)	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
(5-1 to 10-31)	2.0			4.0
(11-1 to 4-30)	3.0			6.0
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine	0.017			0.04
Dissolved Oxygen	not less than 6.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

III. WQM Industrial Waste and Sewerage Applications under The Clean Streams Law (35 P. S. §§ 691.1—691.1001)

Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.

WQM Permit No. 4604407, Sewerage, **Lower Perkiomen Valley Regional Sewer Authority**, 5 River Road, P. O. Box 613, Oaks, PA 19456-0613. This proposed facility is in Lower Providence and Skippack Township, **Montgomery County**.

Description of Proposed Action/Activity: Installation of a 34-inch PVC sewer interceptor, sewer manholes and nine sewage meter pits.

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.

WQM Permit No. 2204401, Sewerage, **Swatara Township Authority**, 599 Eisenhower Boulevard, Harrisburg, PA 17111. This proposed facility is in Swatara Township, **Dauphin County**.

Description of Proposed Action/Activity: Rehabilitation of the Eisenhower Boulevard Interceptor, Lawnton-Oakleigh Sewer District.

WQM Permit No. 6704407, Sewerage, **Jackson Township Sewer Authority**, 439 Roth's Church Road, Spring Grove, PA 17362-8872. This proposed facility is in Jackson Township, **York County**.

Description of Proposed Action/Activity: Construction of Pahagaco Heights section 2 sewer line extension.

WQM Permit No. 6704408, Sewerage, **Windsor Township**, P. O. Box 458, Red Lion, PA 17356. This proposed facility is in Windsor Township, **York County**.

Description of Proposed Action/Activity: Construction/installation of a gravity sewage collection system, a pumping station and force main to serve the Stanczyk tract and modifications to the Taylor Estates pump station.

WQM Permit No. 3604201, Industrial Waste, **Frey Brothers, Inc.**, 372 Puseyville Road, Quarryville, PA 17566. This proposed facility is in East Drumore Township, **Lancaster County**.

Description of Proposed Action/Activity: Construction of a residual waste pond for their mulching facility.

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

WQM Permit No. 1404401, Sewerage, SIC 4952, **University Area Joint Authority**, 1576 Spring Valley Road, State College, PA 16801. This proposed facility will be in Ferguson Township, **Centre County**.

Description of Proposed Action/Activity: Applicant is applying for a permit to authorize the construction and operation of sewer extensions and a pumping station to serve residential and commercial establishments in the Foxpointe Planned Residential Development and the S & A Custom Built Homes, Inc. corporate headquarters. The system will initially serve the S & A headquarters and service center. Over the next 5 to 10 years, the remaining sections of Foxpointe PRD (family units, condominiums and commercial establishments) will be served by the system.

WQM Permit No. 5904401, Sewerage, SIC 4952, **David Haslund**, Barber Hollow Road, Tioga, PA 16946. This proposed facility will be in Tioga Township, **Tioga County**.

Description of Proposed Action/Activity: The applicant seeks a WQM permit to construct and operate a small flow treatment facility to serve a single residence. Discharge will be to Shanty Creek (WWF).

WQM Permit No. 5904402, Sewerage, SIC 4952, **Jackson Township Municipal Authority**, P. O. Box 61, Millerton, PA 16936. This proposed facility will be in Jackson Township, **Tioga County**.

Description of Proposed Action/Activity: Applicant is applying for a permit to authorize the construction of modifications to the wastewater conveyance and treatment systems. Additional services areas will be added. The average daily flow will be increased from 0.1 mgd to 0.11 mgd. Volumes of the aeration, clarification and sludge holding tanks will be increased. Discharge from the plant is to Hammond Creek (CWF).

WQM Permit No. 0804402, Sewage 4952, **Jason Hodlofski**, 315 Canton Street, Troy, PA 16947. This proposed facility is in Troy Township, **Bradford County**.

Description of Proposed Action/Activity: The applicant proposes to construct and operate a commercial sewage plant for a health club. The sewage plant will be a septic tank, two free access filters and chlorination.

WQM Permit No. 1403405, Sewerage 4952, **Moshannon Valley Joint Sewer Authority**, P. O. Box 581, 829 North Ninth Street, Philipsburg, PA 16866-0581. This proposed facility is in Rush Township, **Centre County**.

Description of Proposed Action/Activity: Applicant is requesting a Water Quality Management Part II Permit for renovation of existing facilities and construction of two aerobic digesters, equipment building, three blowers, centrifuge and related piping at the wastewater treatment plant.

IV. NPDES Applications for Stormwater Discharges from MS4

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

NPDES Permit No.	Applicant Name and Address	County	Municipality	Receiving Water/Use	Department Protocol (Y/N)
PAI132215	Bath Borough 215 E. Main St. Bath, PA 18014	Northampton	Bath Borough	Monocacy Creek HQ-CWF	Y

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

NPDES Permit No.	Applicant Name and Address	County	Municipality	Department Protocol (Y/N)
PAI136132	Sewickley Hills Borough 1165 Fairhill Playground Road Sewickley, PA 15143	Allegheny	Sewickley Hills Borough	Y

V. Applications for NPDES Waiver Stormwater Discharges from MS4

VI. NPDES Individual Permit Applications for Discharges of Stormwater Associated with Construction Activities

Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.

*NPDES Permit
No.*

<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI010904001 Wawa, Inc. Wawa Food Market 260 West Baltimore Pike Wawa, PA 19063	Bucks	Milford Township	Molasses and Unami Creeks HQ-TSF
PAI010904003 Daniel Rossetti Subdivision 1810 Freier Road Quakertown, PA 18951	Bucks	Springfield Township	Unnamed tributary Cooks Creek EV
PAI011504013 ACMEC of North America P. O. Box 1485 Blue Bell, PA 19422	Chester	West Pikeland Township	Unnamed tributary Pine Creek HQ-TSF
PAI011504014 Robert Bruce Homes Wilson Property 1223 West Chester Pike West Chester, PA 19382	Chester	Tredyffrin Township	Little Valley Creek EV
PAI011504015 Issac Enterprises, Ltd. Bridge St. Contractor's Yard 932 Jaine Lane Chester Springs, PA 19425	Chester	East Vincent Township	Unnamed tributary Schuylkill River HQ-TSF

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

*NPDES Permit
No.*

<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI026703003 The Stephen Group 4603 Compass Point Road Belcamp, MD 21017	York	East Hopewell Township	UNT to South Branch Muddy Creek HQ-CWF
PAI0050004002 Ernest Hursh 600 Clearview Road Ephrata, PA 17522	Perry	Oliver Township	UNT to Buffalo Creek HQ-CWF

Adams County Conservation District, 670 Old Harrisburg Road, Suite 201, Gettysburg, PA 17325.

*NPDES Permit
No.*

<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI030104001 Department of Defense 100 Boundary Channel Drive Arlington, VA 22202	Adams	Carroll Valley Borough Hamiltonban Township	Miney Branch CWF Tom's Creek HQ-CWF

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

Centre Conservation District: 414 Holmes Ave., Bellefonte, PA 16823, (814) 355-6817.

*NPDES Permit
No.*

<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI041404006 Marion Township Community Park and Adm. Facility 4337 Jacksonville Rd. Howard, PA 16841	Centre	Marion Township	Lick Run HQ-CWF

Union County Conservation District, 88 Bull Run Crossing Suite 5, Lewisburg, PA 17837, (570) 523-8782.

*NPDES Permit
No.*

<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI046004001 Earl Martin 1535 Red Bank Road Mifflinburg, PA 17844	Union	West Buffalo Township	Buffalo Creek HQ

VII. List of NOIs for NPDES and/or Other General Permit Types

PAG-12	CAFOs
PAG-13	Stormwater Discharges from MS4

PUBLIC WATER SUPPLY (PWS) PERMIT

Under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17), the following parties have applied for a PWS permit to construct or substantially modify a public water system.

Persons wishing to comment on a permit application are invited to submit a statement to the office listed before the application within 30 days of this public notice. Comments received within the 30-day comment period will be considered in the formulation of the final determinations regarding the application. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of Environmental Protection (Department) of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held after consideration of comments received during the 30-day public comment period.

Following the comment period, the Department will make a final determination regarding the proposed permit. Notice of this final determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

The permit application and any related documents are on file at the office listed before the application and are available for public review. Arrangements for inspection and copying information should be made with the office listed before the application.

Persons with a disability who require an auxiliary aid, service or other accommodations to participate during the 30-day public comment period should contact the office listed before the application. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

SAFE DRINKING WATER MINOR AMENDMENT

Applications Received under the Pennsylvania Safe Drinking Water Act

Northeast Region: Water Supply Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Application No. Minor Amendment.

Applicant	Ship-Bath, LLP
Township or Borough	Moore Township, Northampton County
Responsible Official	Iain Roddick, General Partner Ship-Bath, LLP 5058 Vera Cruz Road Center Valley, PA 18034
Type of Facility	PWS
Application Received Date	March 15, 2004
Description of Action	This application requests the transfer of PWS Permit No. 4887504 issued on October 19, 1988, for the High Acres Mobile Home Park Water System from Herd Manufactured Homes to Ship-Bath, LLP. The new PWS ID No. will be 3480040.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 1

Acknowledgment of Notices of Intent to Remediate Submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Sections 302—305 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate is used to identify a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use the Background Standard, Statewide Health Standard, the Site-Specific Standard or who intend to remediate a site as a special industrial area must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known or suspected contaminants at the site, the proposed remediation measures for the site and a description of the intended future use of the site. A person who demonstrates attainment of one, a combination of the cleanup standards or who receives approval of a special industrial area remediation identified under the act will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department. Furthermore, the person shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

Under sections 304(n)(1)(ii) and 305(c)(2) of the act, there is a 30-day public and municipal comment period for sites proposed for remediation using a Site-Specific Standard, in whole or in part, and for sites remediated as a special industrial area. This period begins when a summary of the Notice of Intent to Remediate is published in a newspaper of general circulation in the area of the site. For the sites identified, proposed for remediation to a Site-Specific Standard or as a special industrial area, the municipality within which the site is located may request to be involved in the development of the remediation and reuse plans for the site if the request is made within 30 days of the date specified. During this comment period, the municipality may request that the person identified as the remediator of the site develop and implement a public involvement plan. Requests to be involved and comments should be directed to the remediator of the site.

For further information concerning the content of a Notice of Intent to Remediate, contact the environmental cleanup program manager in the Department regional office before which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the community relations coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following Notices of Intent to Remediate:

Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.

Former Daewoo Dealership (currently Family Dodge), City of Philadelphia, **Philadelphia County**. Timothy M. O'Hare, RT Environmental Services, Inc., 510 Heron Dr., P. O. Box 521, Bridgeport, NJ 08014, on behalf of Greg Gentilly, Family Dodge, 6735 Essington Ave., Philadelphia, PA 19153, has submitted a Notice of Intent to Remediate groundwater contaminated with PAH and used motor oil. The applicant proposes to remediate the site to meet the Statewide Health Standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Philadelphia Inquirer* on March 15, 2004.

Boulevard Plaza, City of Philadelphia, **Philadelphia County**. Jim Mullan, Hodge Consulting, 987 Haddon Ave., 2nd Fl., Collingswood, NJ 08108, has submitted a Notice of Intent to Remediate groundwater contaminated with chlorinated solvents and inorganics. The applicant proposes to remediate the site to meet Site-Specific Standards. A summary of the Notice of Intent to Remediate was reported to have been published in the *Northeast Times* on February 25, 2004.

Southwest Region: Environmental Cleanup Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Industrial Property (Former), Borough of Versailles, **Allegheny County**. Charles Haefner, Jr., P. G., KU Resources, Inc., Business Innovation Center, One Library Place, Suite 207, Duquesne, PA 15110 (on behalf of Pat McGrail, 1714 Lincoln Way, White Oak, PA 15131) has submitted a Notice of Intent to Remediate soil and groundwater contaminated with lead, PAHs and inorganics. The applicant proposes to remediate the site to meet the Site Specific Standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *McKeesport Daily News* on March 4, 2004.

Rite Aid (Indiana Site), Borough of Indiana, **Indiana County**. Steven R. Vedder, BL Companies, 830 Sir Thomas Court, Harrisburg, PA 17109 (on behalf of Robert Lerner, Rite Aid Corporation, 30 Hunter Lane, Camp Hill, PA 17011) has submitted a Notice of Intent to Remediate soil and groundwater contaminated with leaded gasoline, unleaded gasoline and MTBE. The applicant proposes to remediate the site to meet the Background and Statewide Health Standards. A summary of the Notice of Intent to Remediate was reported to have been published in the *Indiana Gazette* on January 17, 2004.

C. E. Kelly Support Facility/Neville Island Maintenance Facility, Neville Island, **Allegheny County**. John Mason, CH2MHILL, 1700 Market Street, Suite 1600, Philadelphia, PA 19103 (on behalf of Steven R. Lenney, Charles E. Kelly Support Facility, 6 Loubaugh Street, Oakdale, PA 15701) has submitted a Notice of Intent to Remediate groundwater contaminated with chlorinated solvents. The applicant proposes to remediate the site to meet the Background and Statewide Health Standards. A summary of the Notice of Intent to Remediate was reported to have been published in the *Pittsburgh Post Gazette* on February 20, 2004.

AIR QUALITY

PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS

NEW SOURCES AND MODIFICATIONS

The Department of Environmental Protection (Department) has developed an "integrated" plan approval, State operating permit and Title V operating permit program. This integrated approach is designed to make the permit-

ting process more efficient for the Department, the regulated community and the public. This approach allows the owner or operator of a facility to complete and submit all the permitting documents relevant to its application one time, affords an opportunity for public input and provides for sequential issuance of the necessary permits.

The Department has received applications for plan approvals and/or operating permits from the following facilities.

Copies of the applications, subsequently prepared draft permits, review summaries and other support materials are available for review in the regional office identified in this notice. Persons interested in reviewing the application files should contact the appropriate regional office to schedule an appointment.

Persons wishing to receive a copy of a proposed plan approval or operating permit must indicate their interest to the Department regional office within 30 days of the date of this notice and must file protests or comments on a proposed plan approval or operating permit within 30 days of the Department providing a copy of the proposed document to that person or within 30 days of its publication in the *Pennsylvania Bulletin*, whichever comes first. Interested persons may also request that a hearing be held concerning the proposed plan approval and operating permit. Comments or protests filed with the Department regional offices must include a concise statement of the objections to the issuance of the Plan approval or operating permit and relevant facts which serve as the basis for the objections. If the Department schedules a hearing, a notice will be published in the *Pennsylvania Bulletin* at least 30 days prior the date of the hearing.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodation to participate should contact the regional office identified before the application. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Final plan approvals and operating permits will contain terms and conditions to ensure that the source is constructed and operating in compliance with applicable requirements in 25 Pa. Code Chapters 121–143, the Federal Clean Air Act (act) and regulations adopted under the act.

PLAN APPROVALS

Plan Approval Applications Received under the Air Pollution Control Act (35 P. S. §§ 4001–4015) and 25 Pa. Code Chapter 127, Subchapter B that may have special public interest. These applications are in review and no decision on disposition has been reached.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790; Mark Wejkszner; New Source Review Chief, (570) 826-2531.

35-322-007: Alliance Sanitary Landfill, Inc. (398 South Keyser Avenue, Taylor, PA 18517) for installation of an air cleaning device (portable enclosed flare) to control landfill gasses at their facility in Taylor Borough, **Lackawanna County**.

54-313-084: Air Products and Chemicals, Inc. (357 Marian Avenue, Tamaqua, PA 18252) for modification of the nitrogen tri-fluoride West Plant I (increase production) and the associated air cleaning devices at their Hometown facility, Rush Township, **Schuylkill County**.

54-313-085: Air Products and Chemicals, Inc. (357 Marian Avenue, Tamaqua, PA 18252) for construction of nitrogen tri-fluoride West Plant II and the associated air cleaning devices at their Hometown facility, Rush Township, **Schuylkill County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Ronald Davis, New Source Review Chief, (717) 705-4702.

06-05099A: Rollinghills Landfill Gas, LLC (1300 North 17th Street, Arlington, VA 22209) for construction of a combustion turbine to be fired on municipal solid waste landfill gas in Earl Township, **Berks County**. The turbine is subject to 40 CFR Part 60, Standards of Performance for New Stationary Sources and 40 CFR Part 63, National Emission Standards for Hazardous Air Pollutants from Municipal Solid Waste Landfills.

07-03048: Chimney Rocks Animal Rest, Inc. (R. R. 1, Box 136 Chimney Rocks Road, Hollidaysburg, PA 16648) for installation of a pet crematory controlled by a thermal afterburner at their facility in Blair Township, **Blair County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; William Charlton, New Source Review Chief, (412) 442-4174.

26-00554A: Amerikohl Mining, Inc. (202 Sunset Drive, Butler, PA 16001) for construction of a portable coal crusher in Saltlick Township, **Fayette County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Devendra Verma, New Source Review Chief, (814) 332-6940.

43-011D: Greenville Metals, Inc. (99 Crestview Drive Ext., Transfer, PA 16154) for a minor modification of a plan approval to change the sulfur dioxide emission limit for the MnS exothermic reaction process at their Greenville Metals site in Pymatuning Township, **Mercer County**.

Intent to Issue Plan Approvals and Intent to Issue or Amend Operating Permits under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter B. These actions may include the administrative amendments of an associated operating permit.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Thomas McGinley, New Source Review Chief, (484) 250-5920.

46-0024D: McNeil Consumer and Specialty Pharmaceuticals (7050 Camp Hill Road, Fort Washington, PA 19034) for installation of a 25 mmBtu/hour boiler, with the capability of burning natural gas and no. 4 fuel oil, at their facility in Whitmarsh Township, **Montgomery County**. The facility is a non-Title V facility with site-wide emission limits for applicable criteria air pollutants. This boiler is subject to 40 CFR Part 60 Subpart Dc—Standards of Performance (NSPS) for Small Industrial-Commercial-Institutional Stream Generating Units. This unit will be equipped with low NOx burner and flue gas recirculation to control emissions of NOx. Due to the site-wide emission limits, no emission increase at the facility is expected. The Plan Approval and Operating Permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790; Mark Wejkszner, New Source Review Chief, (570) 826-2531.

35-399-041: Cinram Manufacturing, Inc. (1400 East Lackawanna Avenue, Olyphant, PA 18448) for construction of 21 printing/screen cleaning stations at their facility in Olyphant Borough, **Lackawanna County**. The facility is a Title V facility. The construction of the printing/screen cleaning stations results in a potential VOC emission increase of 24.30 tons per year. The plan approval will include all appropriate monitoring, recordkeeping and reporting requirements designed to keep the source operating within all applicable air quality requirements and will be incorporated into the Title V Operating Permit through an Administrative Amendment in accordance with 25 Pa. Code § 127.450.

39-312-049: Gulf Oil Limited Partnership (90 Everett Avenue, Chelsea, MA 02150) for modification of storage tank 108 to be utilized for gasoline storage by the installation of a floating roof in the tank at their Fullerton Terminal in Whitehall Township, **Lehigh County**. The facility is a non-Title V (State-only) facility. The maximum VOC emissions from utilizing tank 108 for gasoline storage will be 2.998 tons per year. The facility has an emission cap for VOCs not to exceed 50.0 tons per year. The plan approval and operating permit will include monitoring, reporting and recordkeeping requirements along with work practice standards designed to keep the source operating within all applicable air quality requirements.

54-322-004: Pine Grove Landfill, Inc. (P. O. Box 307, Pine Grove, PA 17963) for installation and operation of one 5,000 scfm capacity enclosed flare for the combustion of landfill gas at the site in Pine Grove Township, **Schuylkill County**. The proposed flare system will provide sufficient combustion capacity and backup flare capacity to destroy all of the landfill gas generated over the life of the landfill. The installation of the flare is intended to provide sufficient capacity for combustion of landfill gas from the existing pads 1 to 11 currently under permit. This action does not represent any additional waste being introduced into the landfill, or an expansion of the landfill, merely the installation of a control device. No additional gas is being generated since the gas generation is based on the size and volume of the landfill. The company has proposed no other changes. Pine Grove Landfill is a major facility subject to Title V permitting requirements. The new flare shall have a destruction efficiency of 98% for nonmethane VOCs. The landfill operation is also subject to NSPS Part 60, Subpart WWW. The company currently has a Title V Permit 54-00021. The Operating Permit will include testing, monitoring, recordkeeping and reporting requirements designed to keep the sources operating within all applicable air quality requirements. The Plan Approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V Operating Permit through an administrative amendment at a later date. For further details, contact Mark J. Wejkszner, (570) 826-2511 within 30 days after publication of this notice.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Ronald Davis, New Source Review Chief, (717) 705-4702.

28-05030A: Industrial Power Generating Corp. (2250 Dabney Road, Richmond, VA 17011) for expansion of their existing electric generating facility from 12 to 16 megawatts from the addition of two engine groups of six engines each in Peters Township, **Franklin County**. This facility's emissions as a result of the expansion will increase to approximately 249 tpy of CO, 99 tpy of NOx, 15 tpy of VOCs, 11 tpy of SO₂ and 11 tpy of PM. The

completion of this Plan Approval will require the facility to apply for a Title V Permit. This plan approval will include monitoring, recordkeeping and reporting requirements designed to keep the sources operating within all applicable air quality requirements.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Devendra Verma, New Source Review Chief, (814) 332-6940.

37-290B: Industrial Concerns, Inc. (526 South Jefferson Street, New Castle, PA 16101) for construction of a dust collection system in the City of New Castle, **Lawrence County**.

In accordance with 25 Pa. Code §§ 127.44(b) and 127.424(b), the Department intends to issue a plan approval to construct a dust collection system to capture particulate emissions from scrap metal operations in the City of New Castle, Lawrence County. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into a State-only operating permit through an administrative amendment at a later date.

Issuance of the plan approval is recommended with the appropriate conditions in the plan approval:

1. The scrap cutting operations shall comply with 25 Pa. Code §§ 123.1, 123.31 and 123.41 for fugitive, odor and visible emissions, respectively.

2. Particulate emissions from the collector shall not exceed 0.02 grain/dscf.

3. Scrap cutting operations shall only take place within the confines of the hood and when the control device is operating. A person may not cause or permit the operation of this source in a manner inconsistent with good operating practices.

4. Until the Consent Decree between the Department and Barletto, that was approved by the Commonwealth Court of Pennsylvania on November 14, 2003, is terminated under the terms of the Consent Decree, all scrap cutting operations at the facility shall be done only between 6 a.m. and the later of 6 p.m. or dusk as outlined in the Corrective Action of the Consent Decree. After the Consent Decree is terminated, the hours of operations shall not be restricted.

5. If scrap cutting is allowing fugitive emissions for any reason, scrap cutting operations shall be modified immediately to eliminate fugitive emissions or suspended.

6. Only one torch can be used at a time to cut scrap.

7. The applicant shall install magnehelic gauge (or equivalent) at conveniently readable location and maintain the gauge to indicate the pressure drop across the collector. Readings of the pressure drop shall be recorded weekly and a record of the readings and a maintenance log, which would include when filters are changed, shall be retained onsite for a period of 5 years.

8. Whenever a condition in this permit requires the measurement of pressure drop across any part of the unit or its control device, the gauge employed shall have a scale so that the expected normal reading shall be no less than 20% of full scale.

9. The operating range for pressure drops of the dust collector shall be determined within 30 days of startup of the control device and shall be indicated to the Department in writing.

10. A person may not cause or permit the operation of this source in a manner inconsistent with good operating practices. If scrap cutting is allowing fugitive emissions

for any reason, scrap cutting operations shall be modified immediately to eliminate fugitive emissions or suspended.

11. The facility shall maintain sufficient replacement cartridges, defined as 20%, for the dust collection system onsite, or shall have immediate access to spare cartridges in the event of failure.

12. If fugitive emissions are observed, the Department shall require additional or revised collection devices and/or operation procedures.

OPERATING PERMITS

Intent to Issue Title V Operating Permits under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter G.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Devendra Verma, New Source Review Chief, (814) 332-6940.

61-00011: Merisol Antioxidants LLC (292, SR 8, Oil City, PA 16301) for issuance of a Title V Permit to operate an industrial organic chemicals manufacturing unit in Township of Cornplanter, **Venango County**. The facility's major emission sources include a gas/oil fired boiler and furnaces, dryers, distillation columns, process vessels, storage tanks and chemical process equipment. The facility is a Title V facility due to its potential to emit of VOC above the major source thresholds. This facility is also subject to the Compliance Assurance Monitoring Rule under 40 CFR Part 64.

Intent to Issue Operating Permits under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter F.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Ronald Davis, New Source Review Chief, (717) 705-4702.

06-05089: Birchcraft Kitchens, Inc. (1612 Thorne Street, Reading, PA 19601) for operation of a wood furniture manufacturing facility in the City of Reading, **Berks County**. The facility is a non-Title V (State-only) facility. The facility will be required to limit the emissions to less than 100 tons for particulate, CO, SO₂ and NO_x, 50 tons of VOC and 10/25 tons of HAPs, during any consecutive 12-month period. The surface coating operation at the facility will be further limited to less than 25 tons of VOC during any consecutive 12-month period. Records of the emissions will be required monthly and 12-month rolling total. The permit will include monitoring, recordkeeping, work practices and reporting to keep the facility operating within all applicable air quality requirements.

07-03018: Central Pennsylvania Humane Society (1837 East Pleasant Valley Boulevard, Altoona, PA 16602) for operation of a crematory for animal remains in Logan Township, **Blair County**. The facility's emission source is a natural gas operated crematory, which primarily emits NO_x. The facility has the potential to emit less than 3 tons of NO_x per year. The State-only operating permit will contain monitoring and recordkeeping requirements to keep the facility operating within all applicable air quality requirements.

21-05064: Atlas Roofing Corporation (802 Highway 19 North, Suite 190, Meridian, MS 39307) for an Operating Permit to operate their polyisocyanurate foam manufacturing facility in Camp Hill Borough (817 Spangler Road), **Cumberland County**. Facility emissions of VOCs are limited to less than 50 tons per 12-month rolling

total. HAP emissions are limited to less than 10 tons per year for each HAP and less than 25 tons per year for cumulative HAPs during any consecutive 12-month period. The State-only operating permit will contain recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; William Charlton, New Source Review Chief, (412) 442-4174.

32-00367: Ridge Energy Co., Inc. (265 Swamp Road, Suite 3000, Clymer, PA 15728) for operation of a crusher at their Laurel Run Quarry in Cherryhill Township, **Indiana County**.

56-00287: Friends to End (5491 Somerset Pike, Hollsopple, PA 15935) for operation of an animal crematory in Jenner Township, **Somerset County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Devendra Verma, New Source Review Chief, (814) 332-6940.

20-00264: Salt Painting Co. (17918 State Highway 198, P. O. Box 491 Saegertown, PA 16433) intends to issue a Natural Minor Operating Permit to operate the Salt Painting Company in Hayfield Township, **Crawford County**.

20-00037: U. S. Bronze Foundry & Machine, Inc. (18649 Brake Shoe Road, P. O. Box 458, Meadville, PA 16335) intends to issue a Natural Minor operating permit for the manufacture of centrifugal cast specialty bronze products in Woodcock Township, **Crawford County**.

COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). Mining activity permits issued in response to applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department of Envi-

ronmental Protection (Department). A copy of an application is available for inspection at the district mining office indicated before an application. Where a 401 Water Quality Certification is needed for any aspect of a particular proposed mining activity, the submittal of the permit application will serve as the request for certification.

Written comments, objections or requests for informal conferences on applications may be submitted by any person or any officer or head of any Federal, State or local government agency or authority to the Department at the district mining office indicated before an application within 30 days of this publication, or within 30 days after the last publication of the applicant's newspaper advertisement, as provided by 25 Pa. Code §§ 77.121—77.123 and 86.31—86.34.

Where any of the mining activities listed will have discharges of wastewater to streams, the Department will incorporate NPDES permits into the mining activity permits issued in response to these applications. NPDES permits will contain, at a minimum, technology-based effluent limitations as identified in this notice for the respective coal and noncoal applications. In addition, more restrictive effluent limitations, restrictions on discharge volume or restrictions on the extent of mining which may occur will be incorporated into a mining activity permit, when necessary, for compliance with water quality standards (in accordance with 25 Pa. Code Chapters 93 and 95). Persons or agencies who have requested review of NPDES permit requirements for a particular mining activity within the previously mentioned public comment period will be provided with a 30-day period to review and submit comments on the requirements.

Written comments or objections should contain the name, address and telephone number of the person submitting comments or objections; the application number; and a statement of sufficient detail to inform the Department on the basis of comment or objection and relevant facts upon which it is based. Requests for an informal conference must contain the name, address and telephone number of requestor; the application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor wishes to have the conference conducted in the locality of the proposed mining activities.

Coal Applications Received

Effluent Limits—The following coal mining applications that include an NPDES permit application will be subject to, at a minimum, the following technology-based effluent limitations for discharges of wastewater to streams:

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Iron (total)	3.0mg/l	6.0mg/l	7.0mg/l
Manganese (total)	2.0mg/l	4.0mg/l	5.0mg/l
Suspended solids	35 mg/l	70 mg/l	90 mg/l
pH*	greater than 6.0; less than 9.0		
Alkalinity greater than acidity*			

* The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to: (1) surface runoff (resulting from a precipitation event of less than or equal to a 10-year 24-hour event) from active mining areas, active areas

disturbed by coal refuse disposal activities and mined areas backfilled and revegetated; and (2) drainage (resulting from a precipitation event of less than or equal to a 1-year 24-hour event) from coal refuse disposal piles.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.

19980101R. Kovalchick Coal Co. (110 Archery Club Road, New Ringgold, PA 17960), renewal of an existing surface mine operation in Conyngham Township, **Columbia County**, affecting 215.0 acres. Receiving streams: None. Application received March 11, 2004.

Knox District Mining Office: White Memorial Building, P. O. Box 669, Knox, PA 16232-0669, (814) 797-1191.

61990103 and NPDES Permit No. PA0241466. Ancient Sun, Inc. (P. O. Box 129, Shippensburg, PA 16254), revision to an existing bituminous surface strip operation in Clinton Township, **Venango County**, affecting 18.5 acres. Receiving streams: unnamed tributary to Bullion Run (CWF). There are no potable water supply intakes within 10 miles downstream. Revision to include a post mining land use change from forestland to pastureland/land occasionally cut for hay of the lands of Albert M. Desko. Application received March 16, 2004.

24900102 and NPDES Permit No. PA0207870. Energy Resources, Inc. (P. O. Box 259, Brockway, PA 15824), renewal of a bituminous surface strip, auger and tippie refuse disposal operation in Fox and Horton Townships, **Elk County**, affecting 143.0 acres. Receiving streams: Brandy Camp Creek and unnamed tributaries to Little Toby Creek (CWF). The first downstream potable water supply intake from the point of discharge is the Elbon Homeowners Association. Application for reclamation only. Application received March 18, 2004.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.

32990108 and NPDES Permit No. PA0235130. KMP Associates (1094 Lantz Road, Avonmore, PA 15618), surface mining permit transfer to KMP Associates, Inc. (1094 Lantz Road, Avonmore, PA 15618) in Young Township, **Indiana County**, affecting 54 acres. Receiving streams: unnamed tributaries to Whiskey Run (CWF). There are no potable water supply intakes within 10 miles downstream. Application received March 12, 2004.

32010103 and NPDES Permit No. PA0248959. KMP Associates (R. R. 2, Box 194, Avonmore, PA 15618), surface mining permit transfer to KMP Associates, Inc. (1094 Lantz Road, Avonmore, PA 15618) commencement, operation and restoration of a bituminous surface mine in Conemaugh Township, **Indiana County**, affecting 8.5 acres. Receiving streams: unnamed tributaries to Big Run (CWF). There are no potable water supply intakes within 10 miles downstream. Application received March 3, 2004.

56940101 and NPDES Permit No. PA02122768. Future Industries, Inc. (P. O. Box 157, Meyersdale, PA 15552), surface mining permit renewal in Brothersvalley

Township, **Somerset County**, affecting 205.9 acres. Receiving streams: unnamed tributaries to Buffalo Creek and Buffalo Creek (CWF). There are no potable water supply intakes within 10 miles downstream. Application received March 12, 2004.

32010106 and NPDES Permit No. PA0248983. Walter L. Houser Coal Company, Inc. (13448 SR 422, Suite 1, Kittanning, PA 16201), surface mining permit revision in Washington Township, **Indiana County**, affecting 62 acres. Receiving streams: unnamed tributaries of S. B. Plum Creek and S. B. Plum Creek (CWF). There are no potable water supply intakes within 10 miles downstream. Application received March 11, 2004.

Greensburg District Mining Office: Armbrust Building, R. R. 2 Box 603-C, Greensburg, PA 15601-0982, (724) 925-5500.

65980104 and NPDES Permit No. PA0202339. MB Energy, Inc. (175 McKnight Road, Blairsville, PA 15717), renewal application of an existing bituminous surface mine in Derry Township, **Westmoreland County**, affecting 329.1 acres. Receiving streams: Miller Run and unnamed tributaries to Miller Run (CWF). There is no potable water supply intake within 10 miles from the point of discharge. Renewal application received March 15, 2004.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.

12040101 and NPDES Permit No. PA0243701. Allegheny Enterprises, Inc. (R. D. 1, Box 48F, Corsica, PA 15829), commencement, operation and restoration of a bituminous surface mine-auger permit in Shippen Township, **Cameron County**, affecting 238.5 acres. Receiving streams: Finley Run (CWF) and Bigger Run (HQ-CWF). There is no downstream potable water supply intake. Application received March 3, 2004.

17040102 and NPDES Permit No. PA0243710. Forcey Coal, Inc. (P. O. Box 225, Madera, PA 16661), commencement, operation and restoration of a bituminous surface mine in Bigler Township, **Clearfield County**, affecting 50 acres. Receiving streams: Clearfield Creek and Banian Run to Muddy Run (CWF) to Clearfield Creek (WWF) to the West Branch of the Susquehanna River. There is no downstream potable water supply intake within 10 miles from the point of discharge. Application received March 15, 2004.

Noncoal Applications Received

Effluent Limits—The following noncoal mining applications that include an NPDES permit application will be subject to, at a minimum, the following technology-based effluent limitations for discharges of wastewater to streams:

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Suspended solids	35 mg/l	70 mg/l	90 mg/l
pH*		greater than 6.0; less than 9.0	

* The parameter is applicable at all times.

A settleable solids instantaneous maximum of 0.5 ml/l applied to surface runoff resulting from a precipitation event. If coal will be extracted incidental to the extraction of noncoal minerals, at a minimum, the technology-based effluent limitations identified under coal applications will apply to discharges of wastewater to streams.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.

58010301T and NPDES Permit No. PA0224171. Reading Materials, Inc. (P. O. Box 79, Skippack, PA 19474), transfer of an existing quarry operation from Powers Stone, Inc. in Bridgewater Township, **Susquehanna County**, affecting 41.9 acres. Receiving streams: unnamed tributary to South Branch Creek. Application received March 12, 2004.

6374SM1C4 and NPDES Permit No. PA0224383. Hanson Aggregates Pennsylvania, Inc. (P. O. Box 231, Easton, PA 18044), correction to an existing quarry operation to include NPDES permit for discharge of treated mine drainage in Hemlock and Madison Townships, **Columbia County**, affecting 210.97 acres. Receiving streams: unnamed tributary to Little Fishing Creek (CWF). Application received March 15, 2004.

Knox District Mining Office: White Memorial Building, P. O. Box 669, Knox, PA 16232-0669, (814) 797-1191.

4379305 and NPDES Permit No. PA0118818. Atlantic States Materials of PA, Inc. (P. O. Box 269, Mercer, PA 16137), revision to an existing sand and gravel operation in East Lackawannock Township, **Mercer County**, affecting 175.2 acres. Receiving streams: Neshannock Creek (TSF). There are no potable surface water supply intakes within 10 miles downstream. Revision to add 10.6 acres to the permit area. Application received March 16, 2004.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.

Permit No. 56980301 and NPDES Permit No. PA0234991. Keystone Lime Company (P. O. Box 278, Springs, PA 15562), renewal of NPDES permit, Addison and Elk Lick Townships, **Somerset County**. Receiving streams: Christener Run, unnamed tributary to Zehner Run, unnamed tributary to Christener Run (HQ-CWF). There are no potable water supply intakes within 10 miles downstream. NPDES renewal application received January 16, 2004.

Greensburg District Mining Office: Armbrust Building, R. R. 2 Box 603-C, Greensburg, PA 15601-0982, (724) 925-5500.

26970401 and NPDES Permit No. PA0202100. Laurel Aggregates, Inc. (P. O. Box 1209, Morgantown, WV 26507), NPDES permit renewal to an existing noncoal surface mine in Springhill Township, **Fayette County**, affecting 254.52 acres. Receiving streams: Rubles Run and unnamed tributaries to Rubles Run (CWF). There is no potable water supply intake within 10 miles from the point of discharge. Renewal application received March 15, 2004.

26950401 and NPDES Permit No. PA0201294. Amerikohl Mining, Inc. (202 Sunset Drive, Butler, PA 16001). Application received for transfer of permit currently issued to Better Materials Corporation for continued operation and reclamation of a noncoal surface mining site (limestone quarry) in Springfield Township, **Fayette County**, affecting 570 acres. Receiving streams: unnamed tributary to Clay Run and Buck Run (CWF). The first downstream potable water supply intake from

the point of discharge is the Municipal Authority of Westmoreland County. Transfer application received March 16, 2004.

PROJECTS UNDER THE ENVIRONMENTAL GOOD SAMARITAN ACT

The Environmental Good Samaritan Act (27 Pa.C.S. §§ 8001—8114) provides certain protections and immunities from civil liability for landowners and persons who voluntarily undertake reclamation and abatement projects to address land and water adversely affected by mining or oil or gas extraction or exploration for natural resources and left in an unreclaimed condition or left discharging water pollution. For landowners and persons to qualify for immunity, the projects must be approved by the Department of Environmental Protection (Department).

The following project proposals have been received by the Department. A copy of the proposals is available for inspection at the office indicated before each proposal.

Written comments or objections may be submitted by any person or any office or head of any Federal, State or local government agency or authority to the Department at the same address within 30 days of this publication.

Written comments or objections should contain the name, address and telephone number of the person submitting comments or objections, the proposal identification number and a statement of sufficient detail to inform the Department of the basis of the comment or objection and the relevant facts upon which it is based.

Project Proposals Received

Greensburg District Mining Office: Armbrust Building, R. R. 2 Box 603-C, Greensburg, PA 15601-0982, (724) 925-5500.

EGS63003. Independence Marsh Foundation, Inc. (P. O. Box 1033, Aliquippa, PA 15001-0833). A project to abate mine drainage pollution in Smith Township, **Washington County**, affecting 5 acres. Receiving streams: Raccoon Creek. Project proposal received September 3, 2003.

FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

The following permit applications, requests for Environmental Assessment approval and requests for 401 Water Quality Certification have been received by the Department of Environmental Protection (Department). Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341) requires the State to certify that the involved projects will not violate the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) as well as relevant State requirements. Persons objecting to approval of a request for certification under section 401 of the FWPCA or to the issuance of a Dam Permit, Water Obstruction and Encroachment Permit or the approval of an Environmental Assessment must submit comments, suggestions or objections within 30 days of the date of this notice, as well as questions, to the regional office noted before the application. Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including the relevant facts upon which they are based.

The Department may conduct a fact-finding hearing or an informal conference in response to comments if

deemed necessary. Individuals will be notified, in writing, of the time and place of a scheduled hearing or conference concerning the certification request to which the comment, objection or suggestion relates. Maps, drawings and other data pertinent to the certification request are available for inspection between 8 a.m. and 4 p.m. on each working day at the regional office noted before the application.

Persons with a disability who wish to attend a hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact the specified program. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Applications received under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and requests for certification under section 401 of the FWPCA (33 U.S.C.A. § 1341(a)).

WATER OBSTRUCTIONS AND ENCROACHMENTS

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

E48-343. Department of Transportation, Engineering District 5-0, 1713 Lehigh Street, Allentown, PA 18103 in Palmer Township, **Northampton County**, U. S. Army Corps of Engineers, Philadelphia District.

To remove the existing structure and to construct and maintain a prestressed concrete beam bridge, along the northbound lane of SR 0033, having a single span of 155.0 feet and an underclearance of approximately 25.0 feet across Bushkill Creek (HQ-CWF). The project also includes rehabilitation of the existing pier foundations of the bridge along the southbound lane of SR 0033, 100 feet upstream of the northbound lane. The project is approximately 0.5 mile south of SR 0191 (Nazareth, PA Quadrangle N: 22.5 inches; W: 2.1 inches).

E58-260. Springville Township, P. O. Box 32, Springville, PA 18844 in Springville Township, **Susquehanna County**, U. S. Army Corps of Engineers, Baltimore District.

To remove the existing structure and to construct and maintain a road crossing of White Creek (CWF), consisting of 45 linear feet of 24.1-foot by 6.5-foot open-bottomed aluminum box culvert. The project is along T-372, approximately 0.7 mile south of the intersection of T-372 and SR 3006 (Springville, PA Quadrangle N: 11.1 inches; W: 10.5 inches).

E13-142. Kovach Enterprises, Inc., 1 Industrial Complex, Nesquehoning, PA 18240-1499 in Nesquehoning Borough, **Carbon County**, U. S. Army Corps of Engineers, Philadelphia District.

To place fill in 3.76 acres of PEM wetlands within the Nesquehoning Creek watershed (HQ-CWF) for the purpose of developing lots 5, 6, 8 and 9 of the Green Acres Industrial Park. The project is along Industrial Road approximately 1.0 mile north of SR 0051 (Nesquehoning, PA Quadrangle N: 19.0 inches; W: 15.0 inches).

E48-344. Columbia Gas Transmission Corporation, 1700 MacCorkle Avenue, S. E., Charleston, WV 25314 in Forks Township, **Northampton County**, U. S. Army Corps of Engineers, Philadelphia District.

To remove the existing 14-inch diameter natural gas transmission line and to construct and maintain 120

utility line wetland crossings temporarily impacting 27.9 acres of wetlands and 50 utility line stream crossings, including cathodic protection measure, associated with the installation of a 20-inch natural gas transmission line along a 43.5-mile segment of existing pipeline 1,278 right-of-way. The purpose of the project is to upgrade the aged and deteriorated existing 14-inch diameter transmission line and work will occur in the existing 50-foot right-of-way with the possibility of an additional 25-foot right-of-way, resulting in a 75-foot construction right-of-way. The project begins just south of an existing compressor station in Forks Township, Northampton County (Bangor, PA-NJ Quadrangle N: 2.9 inches; W: 13.7 inches) continues north through Monroe County and ends at the Weber Road in Dingmans Township, Pike County (Edgemere, PA Quadrangle N: 6.2 inches; W: 0.5 inch) (Bangor, PA-NJ Quadrangle N: 2.9 inches; W: 13.7 inches).

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

E36-780: Ephrata Township, 265 Akron Road, Ephrata, PA 17522 in Ephrata Township, **Lancaster County**, ACOE Baltimore District.

To construct and maintain: (1) a two-span concrete bridge with a total span of 130 feet on an average skew of 49 degrees with an underclearance of 8.8 feet over Cocalico Creek (WWF); and (2) an outfall at the left bank to realign Rettew Mill Road (T-656), just north of Akron Borough (Ephrata, PA Quadrangle N: 8.14 inches; W: 11.2 inches) in Ephrata Township, Lancaster County.

E31-194: Huntingdon County Conservation District, R. R. 1 Box 7C, Huntingdon, PA 16652 in Coalmont Borough, **Huntingdon County**, ACOE Baltimore District.

To construct and maintain a stream rehabilitation project on Shoup Run (WWF, perennial) beginning at (Saxton, PA Quadrangle N: 15.7 inches; W: 10.6 inches) and extending to a point 325 feet upstream (Saxton, PA Quadrangle N: 15.7 inches; W: 10.7 inches) using a natural stream channel design approach involving floodway excavation and grading and the placement of two W-weirs and three rock vanes for the purpose of improving sediment transport and local channel stability around the SR 913 bridge in Coalmont Borough, Huntingdon County. The project proposes to directly affect 325 feet of Shoup Run.

E22-468: A. Robert Sinadinis, 214 Mattis Avenue, Middletown, PA 17057 in West Hanover Township, **Dauphin County**, ACOE Baltimore District.

To fill and maintain 0.04 acre of wetlands and to install and maintain a 36-inch corrugated metal culvert pipe across wetlands and an unnamed tributary to Manada Creek (WWF) for the purpose of constructing a driveway to access a building lot, approximately 3/4 mile south of US Route 22 and just east of Route 39 (Hershey, PA Quadrangle N: 13.75 inches; W: 12.20 inches) in West Hanover Township, Dauphin County.

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.

E14-457. Thistlewood Association, 2300 South Atherton Street, State College, PA 16801. Thistlewood in Ferguson Township, **Centre County**, ACOE Baltimore District (McAleveys Fort, PA Quadrangle N: 20.7 inches; W: 16.8 inches).

To construct and maintain 64 separate and compete waterway impacts for a proposed 53-lot residential subdivision that consist of: (1) an 11-foot 5-inch by 7-foot 3-inch by 100-foot long corrugated metal arch pipe, its associated concrete endwalls and roadway cover in Slab Cabin Run; (2) a earthen berm stormwater detention basin no. 4 that will directly impact 350 feet of a minor stream channel; (3) the placement of fill on the proposed lot no. 53 to provide an area to build a house and stay 50 feet away from Slab Cabin Run; (4) the outfall of swale no. 1 from detention basin no. 2 into wetlands; (5) four utility line crossings; (6) five minor roads crossings of channels with less than a 640-acre drainage area; and (7) 51 utility line and minor road crossings of wetlands or channels with less than 100-acre drainage area.

E14-458. George W. Newman, Wildcat Hollow Lodge, Inc., 323 Turnpike St., P. O. Box 544, Milesburg, PA 16853-0544. Water Obstruction and Encroachment Joint Permit application in Boggs Township, **Centre County**, ACOE Susquehanna River Basin District (Bellefonte, PA Quadrangle N: 21.6 inches; W: 14.6 inches).

Wastewater Treatment Appurtenance

<i>Regulated Water</i>	
Treatment plant	Chest Creek Floodplain
Outfall structure	Chest Creek
Sanitary sewer crossing	Unnamed tributary
Sanitary sewer crossing	Unnamed tributary
Sanitary sewer crossing	Unnamed tributary
Sanitary sewer crossing	Unnamed tributary
Sanitary sewer crossing	Chest Creek
Sanitary sewer crossing	Unnamed tributary
Sanitary sewer crossing	Unnamed tributary
Sanitary sewer crossing	Unnamed tributary

Construction and maintenance work for sanitary sewer line crossings of Chest Creek and its tributaries shall be completed during stream low flow and dry work conditions by damming and pumping or fluming stream flow around the work area. Since Chest Creek is wild trout fishery, no construction or future repair work shall be completed in or along the stream channels between October 1 and December 31 without prior written permission from the Fish and Boat Commission. Since Chest Creek is also a stocked trout fishery, no construction or future repair work shall be completed in or along the stream channels between March 1 and June 15 without prior written permission from the Fish and Boat Commission. This permit also authorizes construction, operation, maintenance and removal of temporary maintenance access roads, causeways, cofferdams and rock stream diversions for all sanitary sewer lines crossing the waterways. Rock used for temporary structures shall only be clean nonpolluting rock. Upon completion of each specific maintenance project, all temporary structures shall be completely removed with the stream banks restored to original contours and elevations.

E41-534. Department of Conservation and Natural Resources, P. O. Box 8451, Harrisburg, PA 17105-8451. Water Obstruction and Encroachment joint permit application in Cascade Township, **Lycoming County**, ACOE

To construct and maintain a 6-foot wide by 4-foot high CMP elliptical pipe and a 32-inch diameter concrete culvert pipe in an unnamed to Wallace Run, 4.5 miles north of the SR 0144 intersection with SR 0220 along SR 0144 in Boggs Township, Centre County. This project proposes to have a minimal impact on the unnamed tributary to Wallace Run (EV). The project does not propose to impact any jurisdictional wetlands.

E17-394. Westover Borough, P. O. Box 199, Westover, PA 16692-0199. Westover Borough wastewater collection and treatment facilities in Westover Borough, **Clearfield County**, ACOE Baltimore District (Westover, PA Quadrangle N: 0.83 inch; W: 6.34 inches).

To construct, operate and maintain eight sanitary sewer crossings Chest Creek and its tributaries, a treated effluent outfall along Chest Creek and a wastewater treatment facility within the 100-year floodplain of Chest Creek in association with the Westover Borough wastewater collection and treatment project. The construction, operation and maintenance of the wastewater collection and treatment facilities may require in-stream or floodplain impacts at locations as follows:

<i>Water Designation</i>	<i>Latitude</i>	<i>Longitude</i>
CWF	40° 45' 20.3"	78° 40' 7.8"
CWF	40° 45' 24.1"	78° 40' 0.46"
CWF	40° 45' 17.5"	78° 40' 8.42"
CWF	40° 45' 14.3"	78° 40' 14.26"
CWF	40° 45' 13.85"	78° 40' 18.32"
CWF	40° 45' 14.60"	78° 40' 26.92"
CWF	40° 45' 10.25"	78° 40' 4.52"
CWF	40° 45' 11.12"	78° 40' 0.46"
CWF	40° 45' 9.63"	78° 39' 53"
CWF	40° 45' 9.51"	78° 39' 49.42"

Susquehanna River Basin District (Grover, PA Quadrangle N: 1.8 inches; W: 7.8 inches).

To remove existing stone masonry bridge piers, construct and maintain a 20-foot by 5-foot reinforced concrete box culvert; to include cast-in-place end walls in Pleasant Stream, 10.5 miles northeast of the intersection of Pleasant Stream Road and SR 0014 along Pleasant Stream Road. This project proposes to permanently impact 60 linear feet of Pleasant Stream (HQ CWF) and does not propose to impact any jurisdictional wetlands.

E53-396. Austin School District, 138 Costello Avenue, Austin, PA 16720. Austin School District athletic field stream enclosure and wetland fill project in Austin Borough, **Potter County**, ACOE Baltimore District (Coudersport, PA Quadrangle N: 22.7 inches; W: 12.0 inches).

To operate and maintain 405 linear feet of enclosure of an unnamed tributary to Freeman Run (HQ-CWF) and 4,626 square feet of associated wetland (EV) for the Austin Area School District Athletic Fields and their appurtenances. The 405 linear feet of stream enclosure was constructed with 12-inch diameter plastic corrugated pipe. All future operation and maintenance work shall be completed during stream low flow and dry work conditions by dams and pumping or fluming stream flow around work areas. Since Freeman Run is a wild trout

fishery, no maintenance work shall be conducted in or along the unnamed tributary channel between October 1 and December 31 without prior written permission from the Fish and Boat Commission. Since Freeman Run is also a stock trout fishery, no maintenance work shall be conducted in or along the unnamed tributary between March 1 and June 15 without prior written permission from the Fish and Boat Commission. Construction of the stream enclosure permanently impacted 0.12 acre of wetland and 405 feet of waterway; and as mitigation, the applicant as agreed to remove a minimum of 20 feet of stream enclosure and construct a minimum of 400 square feet of wetland. The project is along the western right-of-way of SR 0872 approximately 2,400 feet south of the SR 0607 and SR 0872 intersection. Application E53-396 was received as an after the fact Water Obstruction and Encroachment permit application.

E59-456. Game Commission, 168 Mann Creek Road, Mansfield, PA 16923, SGL 313 observation blind in Delmar Township, **Tioga County**, ACOE Baltimore District (Keeneyville, PA Quadrangle N: 8.55 inches; W: 6.50 inches).

To place and maintain fill in 512 square inches of a 350-acre graminoid marsh wetland complex for the purpose of constructing a wooden observation blind and elevated boardwalk 100 linear feet in length. The fill is for placement of support posts for the boardwalk and observation blind. The site is east of SR 287 on T-540 at the intersection of the Wellsboro and Corning Railroad.

E60-164. Department of Conservation and Natural Resources, P. O. Box 8451, Harrisburg, PA 17105-8451. Water Obstruction and Encroachment joint permit application in Hartley Township, **Union County**, ACOE Susquehanna River Basin District (Harleton, PA Quadrangle N: 19.4 inches; W: 8.3 inches).

To remove existing single span steel beam bridge, construct and maintain a single span prestressed adjacent box beam bridge with a clear span of 23 feet 2 inches and a minimum underclearance of 4.8 feet; to include R-7 rock protection along the bridge piers in Rapid Run, .25 mile south of the intersection of Pine Creek Road and SR 0192 along Pine Creek Road. This project proposes to permanently impact 60 linear feet of Rapid Run (HQ CWF), a stream containing wild trout and a TSF and does not propose to impact any jurisdictional wetlands.

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

E02-1455. Sperling Funeral Home, Inc., 408 Cedar Avenue, Pittsburgh, PA 15212-5507. Sperling Funeral Home wetland fill and outfall in McCandless Township, **Allegheny County**, Pittsburgh ACOE District (Emsworth, PA Quadrangle N: 15.4 inches; W: 3.6 inches) (Latitude: 40° 35' 5" and Longitude: 80° 1' 33"). The applicant proposes to place and maintain fill in 0.42 acre of wetlands (PSS) and to construct and maintain a stormwater outfall to Pine Creek (CWF) for a proposed funeral home. The project is in the northwest corner of the intersection of Blazier Drive and Ingomar Road. To compensate for the wetland impacts the applicant proposes to make a payment into the wetland replacement fund.

E03-420. Armstrong School District, 410 Main Street, Ford City, PA 16226. West Hills Primary School expansion in East Franklin Township, **Armstrong County**, Pittsburgh ACOE District (Kittanning, PA Quadrangle N: 14.6 inches; W: 8.0 inches) (Latitude: 40° 49' 49" and Longitude: 79° 33' 28"). The applicant proposes to

place and maintain fill in 0.36 acre of PEM/PSS wetland in the watersheds of unnamed tributaries to Glade Run (TSF) and to construct and maintain a 36-foot long, 42-inch diameter culvert on the proposed access road in the stream. The project is along SR 4010.

E03-421. John L. Crawford, John Crawford, Inc., 2117 Route 66, New Bethlehem, PA 16242. Culvert over Mast Run in Madison Township, **Armstrong County**, Pittsburgh ACOE District (East Brady, PA Quadrangle N: 13.3 inches; W: 5.8 inches) (Latitude: 40° 56' 54" and Longitude: 79° 32' 31"). The applicant proposes to operate and maintain a corrugated metal pipe arch having an opening of 95 inches wide and 67 inches high in Mast Run (CWF) for the purpose of access to logging operations. The project is at a point approximately 0.5 mile east of the intersection of T-688 and SR 1004 near the Village of Cosmos.

E32-349. Reliant Energy Northeast Management Company, 1442 Power Plant Road, SR 2008, New Florence, PA 15944. Pump house water intake in West Wheatfield Township, **Indiana County**, Pittsburgh ACOE District (New Florence, PA Quadrangle N: 2.1 inches; W: 7.9 inches) (Latitude: 40° 23' 11" and Longitude: 79° 03' 21"). The applicant proposes to operate and maintain the make-up pump house water intake channel along the Conemaugh River (WWF) at the Conemaugh Generating Station off SR 2008.

E56-327. Windber Area Authority, 1700 Stockholm Avenue, Windber, PA 15963. Windber Area Authority lower interceptor sewer replacement in Richland Township and Scalp Level Borough, **Cambria County** and Paint Borough and Paint Township, **Somerset County**, Pittsburgh ACOE District (Start: Johnstown, PA Quadrangle N: 1.44 inches; W: 2.09 inches—Latitude: 40° 15' 29" and Longitude: 78° 53' 24" and Ends: Windber, PA Quadrangle N: 21.56 inches; W: 13.65 inches—Latitude: 40° 14' 37" and Longitude: 78° 50' 52"). The applicant proposes to install and maintain approximately 17,000 linear feet of 42-inch and 36-inch diameter gravity sewer line in, across or along Stony Creek (WWF), Paint Creek (CWF-TSF) and an unnamed tributary to Paint Creek (CWF). Approximately 1,190 feet of watercourse will be affected by three in-stream utility line crossings and four overhead utility line crossings. An additional 240 feet of watercourse will be temporarily affected by eight temporary roadway crossings. Approximately 0.05 acre of wetland will be affected by a 42-inch utility line crossing and an additional 0.35 acre of wetland will be temporarily affected during construction of this crossing. The project starts at the Windber Area Authority Sewage Treatment Plant and ends near where SR 4051 crosses over Paint Creek in Richland Township and Scalp Level Borough, Cambria County and Paint Borough and Paint Township, Somerset County.

E63-557. Washington County Planning Commission, 100 West Beau Street, Suite 701, Washington, PA 15301. Maintain Sawhill Covered Bridge 23 in Blaine Township, **Washington County**, Pittsburgh ACOE District (Middletown, PA Quadrangle N: 10.0 inches; W: 5.9 inches) (Latitude: 40° 10' 49" and Longitude: 80° 24' 59"). The applicant proposes to rehabilitate, operate and maintain the existing Sawhill Covered Bridge 23 having a clear span of 49.0 feet with a minimum underclearance of 8.42 feet across the channel of Buffalo Creek (HQ-WWF) for the purpose of improving highway safety. The bridge is on TR 426, just west from the intersection of TR 426 and SR 221. The project will impact 125.0 linear feet of stream channel. The applicant also proposes to construct

and maintain a temporary stream crossing consisting of eight 36-inch diameter culverts just down stream from the existing bridge.

E65-842. Donato and Diane Pasquarelli, 710 Nathan Drive, North Huntingdon, PA 15642. Woodridge Estates stream enclosure in North Huntingdon Township, **Westmoreland County**, Pittsburgh ACOE District (Irwin, PA Quadrangle N: 10.04 inches; W: 12.85 inches) (Latitude: 40° 18' 19" and Longitude: 79° 43' 2"). The applicant proposes to construct and maintain a 5-foot diameter stream enclosure in an unnamed tributary to Little Sewickley Creek (TSF) and another 5-foot diameter steam enclosure in a tributary to the stream. Also, to place and maintain fill in 0.11 acre of wetland in the proposed Woodridge Estates along the south side of Barnes Lake Road.

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

E25-684, Bay Harbor Marina Limited Partnership, 9620 Donation Road, Waterford, PA 16441. Cherry Street Marina rehabilitation in the City of Erie, **Erie County**, ACOE Pittsburgh District (Erie North, PA Quadrangle N: 1.1 inches; W: 13.7 inches).

The applicant proposes rehabilitation of the existing marina in Presque Isle Bay (WWF, perennial), Lake Erie

at the foot of Cherry Street approximately 2.4 miles east of the base of the Presque Isle Peninsula involving: (1) fill approximately 0.52 acre at the southeast end of the marina for realignment purposes and to construct and maintain a parking lot; (2) to remove and fill approximately 0.17 acre of the existing lift well and to construct and maintain a new lift well and hoist crane; (3) to remove the existing breakwall across the center of the marina and to remove the existing docks and to install and maintain three approximately 770-foot long floating docks and a row of additional slips along the west wall of the marina; and (4) to install and maintain a riprap wall at the southern end of the marina. The project proposes to directly affect approximately 0.69 acre of Presque Isle Bay.

E37-159, Department of Transportation, District 11-0, 45 Thoms Run Road, Bridgeville, PA 15017. SR 4006, Segment 0050, Offset 0672 Across Marshall Run in Mahoning Township, **Lawrence County**, ACOE Pittsburgh District (Edinburg, PA Quadrangle N: 6.4 inches; W: 11.35 inches).

To remove the existing culvert and to install and maintain a 35-foot long, 117-inch wide by 79-inch high corrugated steel pipe arch culvert having a 6-inch depressed invert in Marshall Run on SR 4006, Segment 0050, Offset 0672, approximately 1 mile west of SR 551.

ACTIONS

THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT FINAL ACTIONS TAKEN FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY MANAGEMENT (WQM) PERMITS

The Department of Environmental Protection (Department) has taken the following actions on previously received applications for new, amended and renewed NPDES and WQM permits, applications for permit waivers and Notices of Intent (NOI) for coverage under general permits. This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing provisions of The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section I	NPDES	Renewals
Section II	NPDES	New or amendment
Section III	WQM	Industrial, sewage or animal wastes; discharges to groundwater
Section IV	NPDES	MS4 individual permit
Section V	NPDES	MS4 permit waiver
Section VI	NPDES	Individual permit stormwater construction
Section VII	NPDES	NOI for coverage under NPDES general permits

Sections I—VI contain actions related to industrial, animal or sewage wastes discharges, discharges to groundwater and discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities and concentrated animal feeding operations (CAFOs). Section VII contains notices for parties who have submitted NOIs for coverage under general NPDES permits. The approval for coverage under general NPDES permits is subject to applicable effluent limitations, monitoring, reporting requirements and other conditions set forth in each general permit. The approval of coverage for land application of sewage sludge or residential septage under applicable general permit is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices and other conditions set forth in the respective permit. Permits and related documents, effluent limitations, permitting requirements and other information are on file and may be inspected and arrangements made for copying at the contact office noted before the action.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

I. NPDES Renewal Permit Actions

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N ?</i>
PA0061212	Mik-Joan Inc. 655 Route 61 Orwigsburg, PA 17961	North Manheim Township Schuylkill County	Mahannon Creek 3A	Y

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N ?</i>
PAR10I179R	Highland Realty Trust 220 N. 72nd St. Harrisburg, PA 17111	Swatara Township Dauphin County	Beaver Creek WWF	Y
PAR10I200R	S & A Homes, Inc. 5709 Linglestown Rd. Harrisburg, PA 17112	West Hanover Township Dauphin County	Beaver Creek WWF	Y

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N ?</i>
PA0110213	Michael and Louise Klemick 108 Grant Street Elysburg, PA 17824	Columbia County Cleveland Township	South Branch Roaring Creek 5E	Y
PA0110680 IW	Wood-Mode Inc. One Second Street Kreamer, PA 17833	Middlecreek Township Snyder County	Middle Creek 6-A	Y
PA0113913 SN	Irvin G. Hoover Irvin's Country Tinware R. R. 1 Box 73 Mt. Pleasant Mills, PA 17853	Snyder County West Perry Township	Unnamed tributary to North Branch Mahantango Creek 6C	Y

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0028134 Industrial Waste	Pennsylvania American Water Company McMurray Office 300 Galley Road P. O. Box 1290 McMurray, PA 15137	Armstrong County Rayburn Township	Allegheny River	Y
PA0090964 Industrial Waste	CQ, Inc. 160 Quality Center Road Homer City, PA 15748	Indiana County Center Township	UNT of Cherry Run	Y
PA0040843 Sewage	Lutheran Camp Association P. O. Box 245 Jennerstown, PA 15547	Somerset County Jenner Township	UNT of Pickings Run	Y
PA0041297 Sewage	Uniontown Area School District 23 East Church Street Uniontown, PA 15401	Fayette County Menallen Township	UNT of Jennings Run	Y
PA0041301 Sewage	Uniontown Area School District 23 East Church Street Uniontown, PA 15401	Fayette County Henry Clay Township	UNT of Beaver Creek	Y
PA0093335 Sewage	Louis Vaughn and Ilona Yenich 105 Hutchinson Road, Apt. 1 West Newton, PA 15089	Westmoreland County Sewickley Township	UNT of Sewickley Creek	Y

<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0093556 Sewage	North Union Township Municipal Services Authority 6 South Evans Station Road Lemont Furnace, PA 15456	Fayette County North Union Township	UNT of Redstone Creek	Y
PA0093874 Sewage	Blairsville-Saltsburg School District 100 School Lane Blairsville, PA 15717	Westmoreland County Loyalhanna Township	UNT of the Kiskiminetas River	Y
PA0097713 Sewage	Gilmory Diocesan Center Catholic Institute of Pittsburgh 601 Flaugherty Run Road Coraopolis, PA 15108-3899	Allegheny County Findlay Township	UNT of Flaugherty Run	Y
PA0205761 Sewage	S-2 Properties P. O. Box 24509 Pittsburgh, PA 15234-4509	Beaver County Hanover Township	UNT of Little Traverse Creek	Y
PA0216381 Sewage	Holly Hill Inc. P. O. Box 801 Warrendale, PA 15095	Beaver County New Sewickley Township	UNT of Crows Run	Y
<i>Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.</i>				
<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N ?</i>
PA0026379	Bradford Sanitary Authority P. O. Box 546 Bradford, PA 16701-0546	Foster Township McKean County	Tunungwant Creek 16-C	Y
PA0209741	Route 322 MHP Reynolds/322 Co., Ltd. 9 Corporation Center Broadview Heights, OH 44167	French Creek Township Mercer County	Powdermill Run 20-C	Y
PA0222453	Scenic Heights Golf Course— West 7616 Knoyle Road Erie, PA 16510	Venango Township Erie County	Unnamed tributary to Six Mile Creek	Y

II. New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Actions

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.

NPDES Permit No. PA0031062, Sewage, **Robesonia-Wernersville Municipal Authority**, P. O. Box 202, Wernersville, PA 19565-0202. This proposed facility is in Wernersville Borough, **Berks County**.

Description of Proposed Action/Activity: Authorization to discharge to Spring Creek in Watershed 3-C.

NPDES Permit No. PA0021709, Sewage, **Borough of Birdsboro**, 202 East Main Street, Birdsboro, PA 19508. This proposed facility is in Birdsboro Borough, **Berks County**.

Description of Proposed Action/Activity: Authorization to discharge to the receiving waters of Hay Creek in Watershed 3-C.

NPDES Permit No. PA0070319, Industrial Waste, **County of Berks, Fire Training Center**, 895 Morgantown Road, Reading, PA 19607. This proposed facility is in Reading City, **Berks County**.

Description of Proposed Action/Activity: Authorization to discharge to Angelica Creek in Watershed 3-C.

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

NPDES Permit No. PA0252603, Sewage, **Cecil Township Municipal Authority**, 3599 Millers Run Road, Suite 104, Cecil, PA 15321. This proposed facility is in Cecil Township, **Washington County**.

Description of Proposed Action/Activity: Discharge of treated sewage from Millers Run Wastewater Treatment Plant to unnamed tributary of Millers Run.

III. WQM Industrial Waste and Sewerage Actions under The Clean Streams Law (35 P. S. §§ 691.1—691.1001)

Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.

WQM Permit No. 1503425, Sewerage, **Valley Township**, 890 West Lincoln Highway, P. O. Box 467, Coatesville, PA 19320. This proposed facility is in Valley Township, **Chester County**.

Description of Proposed Action/Activity: Construction and operation of an age-qualified residential community of 621 units and a community center.

WQM Permit No. 0904402, Sewerage, **Warrington Township**, 1585 Turk Road, Warrington, PA 18976. This proposed facility is in Warrington Township, **Buck County**.

Description of Proposed Action/Activity: Construction and operation of a pumping station and force main.

WQM Permit No. 1504401, Sewerage, **East Fallowfield Township**, 100 Cheshire Court, Suite 104, Coatesville, PA 19320. This proposed facility is in East Fallowfield Township, **Chester County**.

Description of Proposed Action/Activity: Construction and operation of a wastewater pumping station to serve a 27-lot single family homes.

WQM Permit No. 1503205, Sewerage, **T. J. Cullen, Inc. Country Cupboard 2**, 1105 North Pottstown Pike, Ludwigs Corner, PA 19343. This proposed facility is in West Vincent Township, **Chester County**.

Description of Proposed Action/Activity: Construction and operation of a wastewater facility.

WQM Permit No. 1503419, Sewerage, **Stonewall Limited Partnership**, P. O. Box 203, Elverson, PA 19520. This proposed facility is in Warwick Township, **Chester County**.

Description of Proposed Action/Activity: Construction and operation of a secondary facility to the main golf course clubhouse including wastewater disposal.

WQM Permit No. 1503412, Sewerage, **Borough of Avondale**, 110 Pomeroy Avenue, P. O. Box 247, Avondale, PA 19311. This proposed facility is in Avondale Borough, **Chester County**.

Description of Proposed Action/Activity: Upgrading and expanding the existing wastewater treatment plant.

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.

WQM Permit No. 6704401, Sewerage, **New Freedom Borough Authority**, 49 East High Street, New Freedom, PA 17349. This proposed facility is in New Freedom Borough, **York County**.

Description of Proposed Action/Activity: Authorization for the construction of the Summer's Glen pump station.

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

WQM Permit No. 1803401, Sewerage, SIC 4952, **United Lutheran Church**, P. O. Box 772, First and Church Streets, Lock Haven, PA 17745. This proposed facility will be in Bald Eagle Township, **Clinton County**.

Description of Proposed Action/Activity: Issuance of a permit authorizing the construction and operation of a 500 gpd small flow treatment facility to serve a single residence and replace a malfunctioning on-lot system. The discharge will be to Sugar Run (CWF).

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

WQM Permit No. 6503407, Sewage, **Southmoreland School District**, 609 Parker Avenue, Scottdale, PA 15683. This proposed facility is in East Huntingdon Township, **Westmoreland County**.

Description of Proposed Action/Activity: Proposing to replace existing sewage treatment plant with a new STP.

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

WQM Permit No. 3704401, Sewerage, **Neshannock Township**, 3131 Mercer Road, New Castle, PA 16105-3593. This proposed facility is in Neshannock Township, **Lawrence County**.

Description of Proposed Action/Activity: This project is for a pump station and sewer extension to serve the Rose Hill Development on Kings-Chapel Road.

IV. NPDES Stormwater Discharges from MS4 Permit Actions

Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI30520	East Goshen Township 1580 Paoli Pike West Chester, PA 19380	Chester	East Goshen	Ridley and Chester Creeks
PAI130522	Edgmont Township 1000 Gradyville Rd. Gradyville, PA 19317	Delaware	Edgmont	Ridley, Crum and Chester Creeks
PAI130528	Westtown Township P. O. Box 79 Westtown, PA 19395	Chester	Westtown	Ridley and Chester Creeks

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI130519	Montgomery County P. O. Box 311 Norristown, PA 19395	Montgomery		Stony Creek/Saw Mill Neshaminy/Little Neshaminy Creek Rock Run/Mill Creek/Gully Creek
PAI130540	Trumbauersville Borough 1 Evergreen Dr. Trumbauersville, PA 18970	Bucks	Trumbauersville	Tohickon Creek

Northeast Region: Water Management Program Manager; 2 Public Square, Wilkes-Barre, PA 18711-0790.

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>	<i>Department Protocol (Y/N)</i>
PAI132221	South Whitehall Township 4444 Walbert Ave. Allentown, PA 18104	Lehigh	South Whitehall Township	Hassen Creek HQ-CWF, MF UNT to Jordan Creek HQ-CWF, MF Jordan Creek TSF, MF Little Cedar Creek HQ-CWF Cedar Creek HQ-CWF	Y
PAI132234	Upper Nazareth Township 100 Newport Rd. Nazareth, PA 18064	Northampton	Upper Nazareth Township	Bushkill Creek HQ-CWF Monocacy Creek HQ-CWF Shoeneck Creek WWF	Y
PAI132202	Moore Township 2419 Community Drive Bath, PA 18014	Northampton	Moore Township	Monocacy Creek HQ-CWF East Branch Monocacy Creek HQ-CWF Main Stem Bushkill Creek HQ-CWF Hokendauqua Creek CWF	Y
PAI132210	City of Bethlehem 10 East Church St. Bethlehem, PA 18018	Lehigh and Northampton	Bethlehem City	Monocacy Creek HQ-CWF Saucon Creek HQ-CWF Lehigh River WWF East Branch Saucon Creek CWF Black River CWF	Y

V. NPDES Waiver Stormwater Discharges from MS4 Actions

VI. NPDES Discharges of Stormwater Associated with Construction Activities Individual Permit Actions

Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS10G546	Genterra Corporation Valley View Subdivision 101 Marchwood Road Exton, PA 19341	Chester	West Brandywine Township	Unnamed tributary West Branch Brandywine Creek HQ
PAI011503082	Arthur Blumenthal Residence 11 Stoneybrook Lane Malvern, PA 19335	Chester	Tredyffrin Township	Valley Creek EV
PAI011503109	Douglas Buettner Subdivision 94 Bacton Hill Road Frazer, PA 19355	Chester	East Whiteland Township	Valley Creek EV

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI033603007	Solanco School District 121 South Hess Street Quarryville, PA 17566	Lancaster	East Drumore Township	UNT to Stewart Run HQ-CWF
PAI030603008	Reading Area Community College Ten South Second Street P. O. Box 1706 Reading, PA 19603	Berks	Reading City	Schuylkill River WWF
PAI033603005-01	Martin Brothers Builders 119 Furlow Road Reinholds, PA 17569	Lancaster	Brecknock Township	Rock Run HQ-TSF

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI044103001	Weis Markets Inc. P. O. Box 471 Sunbury, PA 17801	Lycoming	Jersey Shore Borough	Nichols Run HQ-CWF

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI063303001	Brockway Area WWTP	Jefferson County Elk County	Brockway Borough Snyder Township Horton Township	Little Toby Creek and UNT; Walburn, Whetstone, Mead, Oyster, Rattlesnake and UNT; Curry Run CWF Boggy Run HQ; CWF

VII. Approvals to Use NPDES and/or Other General Permits

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 40 CFR 123.23(d).

List of NPDES and/or Other General Permit Types

PAG-1	General Permit for Discharges from Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated with Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater from Industrial Activities
PAG-4	General Permit for Discharges from Single Residence Sewage Treatment Plants
PAG-5	General Permit for Discharges from Gasoline Contaminated Ground Water Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges from Combined Sewer Systems
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application

PAG-8	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-8 (SSN)	Site Suitability Notice for Land Application under Approved PAG-8 General Permit Coverage
PAG-9	General Permit for Beneficial Use of Residential Septage by Land Application to Agricultural Land, Forest or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application under Approved PAG-9 General Permit Coverage
PAG-10	General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines
PAG-11	(To Be Announced)
PAG-12	CAFOs
PAG-13	Stormwater Discharges from MS4

General Permit Type—PAG-2

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Perkasie Borough Bucks County	PAR10D708	Eastern Strothers Development Bucks County Office Center Suite G-6 Bristol, PA 19007	East Branch Perkiomen Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Wrightstown Township Bucks County	PAR10D672	Heritage Building Group, Inc. Simond/Weichec Tracts 3326 Old York Road Suite 100A Furlong, PA 18925	Jericho Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Middletown Township Bucks County	PAR10D565-1	JDA Development Co., LLC Giant Food at Middletown	Mill Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Richland Township Bucks County	PAG2000903007	Highglen-Pineville Quakertown Association, LP Trainer's Corner Shopping Ctr. 8120 Old York Road Elkins Park, PA 19027	Licking Run CWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Wrightstown Township Bucks County	PAG2000903004	Reshetar Realty Reshetar Park Avenue Sub. P. O. Box 2045 Doylestown, PA 18901	Unnamed tributary Mill Creek WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Nockamixon Township Bucks County	PAG2000903079	Cecelia McNichol McNichol Minor Subdivision 2005 Upper Stump Rd. Fountainville, PA 18923	Pennypack Creek WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Bensalem Township Bucks County	PAG2000903090	TSAG Associates, Inc. Tremont Village 1333 West Cheltenham Avenue Elkins Park, PA 19027	Unnamed tributary Neshaminy Creek WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Falls Township Bucks County	PAG20000903109	Baldrige Real Estate, Inc. Eckerd's Pharmacy 11925 Manchester Road St. Louis, MO 63131	Delaware River WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Warminster Township Bucks County	PAG2000903179	Department of Transportation SR 0263 Sec BU1/York Rd. Wdng. 7000 Geerdes Boulevard King of Prussia, PA 19406	Pennypack Creek TSF, MF, WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
New Britain Township Bucks County	PAG2000903116	Archdiocese of Philadelphia St. Jude's Church Development 321 West Butler Avenue Chalfont, PA 18914	West Branch Neshaminy Creek WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Solebury Township Bucks County	PAG2000903135	Zaveta Construction Company Rockwood Farm 4030 Skyron Drive, Suite H Doylestown, PA 18901	Unnamed tributary Delaware River TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
East Rockhill Township Bucks County	PAG2000903147	Pennridge Dev Enterprises, Inc. Pennridge Airport Construction 100 North Ridge Road Perkasie, PA 18944-1799	Three Mile Run CWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Doylestown Township Bucks County	PAG2000903154	Doyle Street Associates, LP NV Homes/Mrs. Paul's Site 102 North Main Street Doylestown, PA 18901	Cook Run WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Lower Makefield Township Bucks County	PAG2000903184	Realen Homes, LLC Chanticleer Subdivision 1040 Stoney Hill Road Suite 100 Yardley, PA 19067	Dyeers Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Richland Township Bucks County	PAG2000904009	Tollgate Real Estate, Inc. Richland Place Subdivision 310 Schoolhouse Road Suite 1 Souderton, PA 18964	Tohickon Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Telford Township Bucks County	PAG2000904013	Telvil Corporation East Summit Avenue Subdivision 528 Main Street, Suite 101 Harleysville, PA 19438	Mill Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Bensalem Township Bucks County	PAG2000904019	Bensalem Presbyterian Church 2826 Bristol Road Bensalem, PA 19020	Unnamed tributary Neshaminy Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Caln Township Chester County	PAG2001503118	The Caln Nether Company, LP Bailey Station P. O. Box 187 West Chester, PA 19381	Unnamed tributary Valley Run TSF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Springfield Township Delaware County	PAG2002303006	Claude DeBottom 1604 Walnut Street Philadelphia, PA 19103	Darby Creek CWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Chadds Ford Borough Delaware County	PAG2002303083	Brandywine Conservancy, Inc. P. O. Box 141 Chadds Ford, PA 19317	Harvey Run/Brandywine Creek WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Chadds Ford Borough Delaware County	PAG2002303075	Lee Fisher 1550 Wilmington Pike West Chester, PA 19382	Unnamed tributary Brandywine River WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Newtown Township Delaware County	PAG2002304004	Chris Zuccarini 3 Cherry Lane Newtown Square, PA 19073	Unnamed tributary Darby Creek CWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Providence Township Montgomery County	PAG2004603220	Carlton Pools, Inc. 311 Old York Road Warminster, PA 18974	Schoolhouse Run/Perkiomen Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Limerick Township Montgomery County	PAG2004603159	B & H Limited Partnership East Coast Marine 1635 West Main Street Trappe, PA 19426	Sanatoga Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
East Norriton Township Montgomery County	PAG2004603188	The Cutler Group The Reserve at Penn Crossing 5 Sentry Parkway West Suite 100 Blue Bell, PA 19422	Unnamed tributary Stony Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Dublin Township Montgomery County	PAG2004604006	John Wozniak 1200 Camp Hill Road Fort Washington, PA 19034	Sandy Run TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Lower Salford Township Montgomery County	PAG2004603224	William Hutchinson Store Road Estates 1686 Wood Bridge Lane Collegeville, PA 19426	West Branch Skiptack Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
West Norriton Township Montgomery County	PAG2004603198	Moreland Development, LLC 2501/2509 West Main St. Dev. 725 Oaks Spring Road Bryn Mawr, PA 19010	Stony Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Whitemarsh Township Montgomery County	PAG2004603217	Whitemarsh Retirement Partners The Hill at Whitemarsh 120 West Germantown Pike Plymouth Meeting, PA 19462	Wissahickon Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Franconia Township Montgomery County	PAG2004603196	Franconia Sewer Authority Indian Creek Interceptor 671 Allentown Rd. Franconia, PA 18924	Indian Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Lower Merion Township Montgomery County	PAG2004604009	The Society of Holy Child Jesus 460 Shadeland Avenue Drexel Hill, PA 19026	Mill Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Merion Township Montgomery County	PAG2004604022	DelCiotto Associates, Inc. Armenian Sisters Academy 309 Sumneytown Pike North Wales, PA 19454	Gulf Creek and Gulf/Mills Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Whitpain Township Montgomery County	PAG2004604030	Beach Realty Associates 998 Penlllyn Blue Bell Pike Blue Bell, PA 19422	Prophecy Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Norristown Borough Montgomery County	PAG2004603222	Sturbridge Builders 840 Thomas Street 310 West 12th Avenue Conshohocken, PA 19428	Sawmill Run WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Lower Pottsgrove Township Montgomery County	PAG2004603248	Pruss Hill Partners, LP Pruss Hill Estates Subdivision 25 Heffner Road Royersford, PA 19468	Sanatoga Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Gettysburg Borough Adams County	PAG200010403	Gettysburg College 300 N. Washington Street Gettysburg, PA 17325	UNT to Rock Creek WWF	Adams County Conservation District 670 Old Harrisburg Road Suite 201 Gettysburg, PA 17325 (717) 334-0636
Exeter Township Berks County	PAG2000604024	Exeter Golf Club Estates 2100 Neptune Drive Melbourne Beach, FL 32951	UNT to Antietam Creek	Berks County Conservation District 1238 County Welfare Road P. O. Box 520 Leesport, PA 19533 (610) 372-4657, Ext. 201
Robeson Township Berks County	PAG2000604018	J. Laverne Horning 3335 Morgantown Road Mohnton, PA 19540	Allegheny Creek CWF	Berks County Conservation District 1238 County Welfare Road P. O. Box 520 Leesport, PA 19533 (610) 372-4657, Ext. 201
Ontelaunee Township Berks County	PAG2000604020	Ontelaunee Township Municipal Authority P. O. Box 621 Leesport, PA 19533	UNT to Schuylkill River CWF	Berks County Conservation District 1238 County Welfare Road P. O. Box 520 Leesport, PA 19533 (610) 372-4657, Ext. 201
Upper Tulpehocken Township Berks County	PAG2000604026	John Smith 555 Mountain Home Road Sinking Spring, PA 19608	Northkill Creek CWF	Berks County Conservation District 1238 County Welfare Road P. O. Box 520 Leesport, PA 19533 (610) 372-4657, Ext. 201
Amity Township Berks County	PAG2000604021	Stanley Fonder DFT Inc. 1050 Ben Franklin Highway Douglassville, PA 19518	Schuylkill River WWF	Berks County Conservation District 1238 County Welfare Road P. O. Box 520 Leesport, PA 19533 (610) 372-4657, Ext. 201
Hampden Township Cumberland County	PAG2002104007	Sun Motor Cars 4444 Carlisle Pike Camp Hill, PA 17011	Conodoguinet Creek WWF	Cumberland County Conservation District 43 Brookwood Avenue Carlisle, PA 17013 (717) 240-7812

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Silver Spring Township Cumberland County	PAG2002104001	Mark Disanto 5351 Jaycee Avenue Harrisburg, PA 17112	Hogestown Run CWF	Cumberland County Conservation District 43 Brookwood Avenue Carlisle, PA 17013 (717) 240-7812
Hampden Township Cumberland County	PAG2002104010	Hampden Township Sewer Authority 230 South Sporting Hill Road Mechanicsburg, PA 17055	Pine Run/Holtz Run	Cumberland County Conservation District 43 Brookwood Avenue Carlisle, PA 17013 (717) 240-7812
North Middleton and Middlesex Townships Cumberland County	PAG2002103055	Keystone Arms Associates, LLC 120 North Pointe Blvd. Suite 300 Lancaster, PA 17601	Letort Spring Run CWF	Cumberland County Conservation District 43 Brookwood Avenue Carlisle, PA 17013 (717) 240-7812
Mechanicsburg Borough Cumberland County	PAG2002104003	Roman Catholic Congregation of St. Joseph's P. O. Box 2012 Mechanicsburg, PA 17055	Cedar Run CWF	Cumberland County Conservation District 43 Brookwood Avenue Carlisle, PA 17013 (717) 240-7812
Lower Swatara Township Dauphin County	PAG2002203053	Pastor James Grove Assembly of God Church 190 Fulling Mill Road Middletown, PA 17057	Swatara Creek WWF	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 (717) 921-8100
Derry Township Dauphin County	PAG2002203055	Daniel Sheffey P. O. Box 72 Lebanon, PA 17042	Spring Creek (East) WWF	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 (717) 921-8100
Londonderry Township Dauphin County	PAG2002203047	Capital Self Storage Assoc. LLC 4050A Carlisle Road Dover, PA 17315	Swatara Creek WWF	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 (717) 921-8100
Brush Creek Township Fulton County	PAI032904001	Crystal Spring, LLC 5513 Woodlyn Road Frederick, MD 21701	Brush Creek HQ-CWF	Fulton County Conservation District 216 N. Second Street Suite 15 McConnellsburg, PA 17233 (717) 485-3547, Ext. 121
Walker Township Juniata County	PAG2033404003	Scott Hackenberger R. R. 2 Box 115 Mifflintown, PA 17059	Locust Run	Juniata County Conservation District R. R. 2 Box 302 Mifflintown, PA 17059 (717) 436-8953, Ext. 5
Derry Township Mifflin County	PAG204403002-1	Joe Krentzman & Sons, Inc. Jack's Creek Settling Working Defendants P. O. Box 508 Lewistown, PA 17044	UNT to Jacks Creek CWF	Mifflin County Conservation District 20 Windmill Hill No. 4 Burnham, PA 17009 (717) 248-4695

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Bradford County North Towanda Township	PAG2000804003	E I Dupont De Nemours and Co., Inc. R. R. 1, Box 15 Patterson Blvd. Towanda, PA 18848	Sugar Creek WWF	Bradford County Conservation District R. R. 5, Box 5030C Stoll Natural Resource Center Towanda, PA 18848 (570) 265-5539x205
Northumberland County Point Township	PAG2004903002-1	Queens Pointe Robert Yoder R. R. 2, Box 181 Turbotville, PA 17772	UNT Susquehanna River WWF	Northumberland County Conservation District R. R. 3, Box 238C Sunbury, PA 17801 (570) 286-7114x4
Union County East Buffalo Township	PAG2006004002	Heim Heights 1307 Jefferson Ave. Lewisburg, PA 17837	Limestone Run WWF	Union County Conservation District 88 Bull Run Crossing Suite 5 Lewisburg, PA 17837 (570) 523-8782
Allegheny County Trafford Borough	PAG2000203088-1	Viacom, Inc. 11 Stanwix Street Pittsburgh, PA 15222	Turtle Creek TSF	Allegheny County Conservation District (412) 241-7645
Allegheny County Elizabeth and Forward Townships	PAG2000203103	McHolme Builders, Inc. 315 Paydays Drive Elizabeth, PA 15037	Gillespie Run WWF	Allegheny County Conservation District (412) 241-7645
Allegheny County North Versailles Township	PAG2000203115	Waterpoint, LP 963 Pittsburgh Street North Versailles, PA 15137	Crooked Run TSF	Allegheny County Conservation District (412) 241-7645
Allegheny County Indiana Township	PAG2000203122	Aegis Terrene Group, LLC 700 Pittsburgh Street Springdale, PA 15144	Deer Creek CWF	Allegheny County Conservation District (412) 241-7645
Allegheny County Pine Township	PAG2000203125	Turnpike Commission P. O. Box 67676 Harrisburg, PA 17106-7676	Brush Creek WWF	Allegheny County Conservation District (412) 241-7645
Allegheny County McCandless Township	PAG2000204001	A. Richard Nernberg 5541 Walnut Street Pittsburgh, PA 15232	Wexford Run/Pine Creek CWF	Allegheny County Conservation District (412) 241-7645
Allegheny County Franklin Park Borough	PAG2000204009	North Allegheny School District 200 Hillvue Lane Pittsburgh, PA 15237	Pine Creek TSF	Allegheny County Conservation District (412) 241-7645
Allegheny County Franklin Park Borough	PAG2000204010	Blaymore II LP Blaymore Office II 1603 Carmody Court Sewickley, PA 15143	Fish Run CWF	Allegheny County Conservation District (412) 241-7645
Allegheny County McCandless Township	PAG2000204011	Fred Miner 820 West Ingomar Rd. Pittsburgh, PA 15237	Lowries Run TSF	Allegheny County Conservation District (412) 241-7645
Allegheny County Penn Hills	PAG2000204012	Theodore Ola 435 Long Road Pittsburgh, PA 15221	Sandy Creek WWF	Allegheny County Conservation District (412) 241-7645
Westmoreland County North Huntingdon Township	PAG2006503050	Donato Pasquerelli 710 Nathan Drive North Huntingdon, PA 15642	UNT to Little Sewickley Creek TSF	Westmoreland County Conservation District (724) 837-5271
Crawford County Linesville Borough	PAG2002004001	Conneaut School District Alice Schafer Elementary School—Additions and Alterations 219 West School Drive Linesville, PA 16424	Linesville Creek WWF	Crawford County Conservation District (814) 724-1793

General Permit Type—PAG-3

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
West Rockhill Township Bucks County	PAR210033	Oldcastle Precast Inc. 514 Township Line Rd. P. O. Box 210 Telford, PA 18969	Mill Creek 3E Watershed	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5970
Warminster Township Bucks County	PAR230054	CRC Industries Inc. 885 Louis Dr. Warminster, PA 18974	UNT to Neshaminy Creek 2F Watershed	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5970
Plymouth Township Montgomery County	PAR230082	Montgomery Chem LLC 901 Conshohocken Rd. Conshohocken, PA 19428	Schuylkill River 3F Watershed	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5970
Upper Gwynedd Township Montgomery County	PAR210020	Allied Concrete & Supply Corp. 1752 Limekiln Pike Dresher, PA 19025	UNT to Wissahickon Creek 3F Watershed	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5970
Upper Dublin Township Montgomery County	PAR210024	Allied Concrete & Supply Corp. 1752 Limekiln Pike Dresher, PA 19025	UNT to Sandy Run 3F Watershed	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5970
Limerick Township Montgomery County	PAR200039	Sermatech Intl. Inc. 155 S. Limerick Rd. Limerick, PA 19468	UNT to Mingo Creek 3D Watershed	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5970
East Whiteland Township Chester County	PAR120001	Archer Daniels Midland Co. 11 Lee Blvd. Frazer, PA 19355	Valley Creek 3F Watershed	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5970
Lancaster County Lancaster City	PAR323512	Armstrong World Industries, Inc. 2500 Columbia Ave. Lancaster, PA 17604	Glenmoore Stream-Little Conestoga Creek TSF	SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Dauphin County Derry Township	PAR123520	Hershey Food Corporation 19 East Chocolate Avenue Hershey, PA 17033	Spring Creek WWF	SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Dauphin County Derry Township	PAR123523	Hershey Food Corporation 19 East Chocolate Avenue Hershey, PA 17033	Spring Creek WWF	SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Shamokin Township Northumberland County	PAR804851	Montour Oil Service Company Shamokin Terminal 112 Broad Street Montoursville, PA 17777	UNT to Shamokin Creek CWF	Northcentral Regional Office Water Management Program 208 West Third Street, Suite 101 Williamsport, PA 17701 (570) 327-3666

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
East Buffalo Township Union County	PAR804852	Montour Oil Service Company Lewisburg Terminal 112 Broad Street Montoursville, PA 17777	UNT to Limestone Run WWF	Northcentral Regional Office Water Management Program 208 West Third Street, Suite 101 Williamsport, PA 17701 (570) 327-3666
Patton Township Centre County	PAR214825	Arrow Industries P. O. Box 4336 Parkersburg, WV 26104	UNT to Big Hollow CWF	Northcentral Regional Office Water Management Program 208 West Third Street, Suite 101 Williamsport, PA 17701 (570) 327-3666
North Buffalo Township Armstrong County	PAR216104	Asbury Graphite Mills Inc. R. D. 7 Box 1, Linde Road Kittanning, PA 16201	Allegheny River	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Neville Township Allegheny County	PAR236106	Watson Standard Co. P. O. Box 11250 Pittsburgh, PA 15238	Neville Township Storm Sewer to the Ohio River	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

General Permit Type—PAG-4

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Orange Township Columbia County	PAG045069	Robert Hopper 167 Savage Hill Road Orangeville, PA 17859	Unnamed tributary to Fishing Creek TSF	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3666
Bald Eagle Township Clinton County	PAG0450170	United Lutheran Church of Lock Haven P. O. Box 772 Lock Haven, PA 17745	Sugar Run CWF	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3666

Permit Type—PAG-5

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Cumberland County Middlesex Township	PAG053578	Hydrocon Services, Inc. 16 East Minor Street Emmaus, PA 18049-4104	Letort Spring Run CWF	SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707

General Permit Type—PAG-8

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Site Name and Location</i>	<i>Contact Office and Telephone No.</i>
Tell Township Huntingdon County	PAG083501 PAG082201 PAG080008 PAG083515 PAG080003 PAG082203 PAG083502 PAG083825 PAG083522 PAG083517 PAG083542 PAG083547 PAG083551 PAG083506 PAG080006 PAG083518 PAG083540 PAG083535 PAG089903 PAG089904 PAG089905 PAG086106	Synagro Mid-Atlantic, Inc. 1605 Dooley Rd. P. O. Box B Whiteford, MD 21160	John Goshorn Farm Tell Township Huntingdon County	SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707

General Permit Type—PAG-13

Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAG130113	Pocopson Township P. O. Box 1 Pocopson, PA 19366	Chester	Pocopson	Brandywine Watershed
PAG130166	Bryn Athyn Borough 2835 Buck Rd. Bryn Athyn, PA 19009	Montgomery	Bryn Athyn	Pennypack, Huntingdon and Southampton Creeks
PAG130147	Franconia Township 671 Allentown Rd. Franconia, PA 18924	Montgomery	Franconia	Perkiomen, Skippack and Neshaminy Creeks
PAG130079	Avondale Borough 110 Pomeroy Ave. Avondale, PA 19311	Chester	Avondale	Christina Watershed
PAG130063	Pennsburg Borough 76 West Sixth St. Pennsburg, PA 18073	Montgomery	Pennsburg	Perkiomen Creek
PAG130122	Aston Township 233 Pennell Rd. Aston, PA 19014	Delaware	Aston	Chester Creek Delaware River South
PAG130120	Collingdale Borough 800 McDade Blvd. Collingdale, PA 19023	Delaware	Collingdale	Darby Creek
PAG130127	Darby Borough 821 Summit St. Darby, PA 19023	Delaware	Darby	Darby and Cobbs Creeks
PAG130117	Bridgeport Borough Fourth and Mill Sts. Bridgeport, PA 19405	Montgomery	Bridgeport	Schuylkill River
PAG130008	Plymouth Township 700 Belvoir Rd. Plymouth Meeting, PA 19462	Montgomery	Plymouth	Stony Creek/Sawmill Run Schuylkill River
PAG130110	Trappe Borough 525 West Main St. Trappe, PA 19426	Montgomery	Trappe	Perkiomen Creek

NPDES Permit No.

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAG130107	Upper Pottsgrove Township 1409 Farmington Ave. Pottstown, PA 19464	Montgomery	Upper Pottsgrove	Manatawny
PAG130103	Whitemarsh Township 1409 Farmington Ave. Pottstown, PA 19464	Montgomery	Whitemarsh	Wissahickon Watershed
PAG130131	Lower Salford Borough 379 Main St. Harleysville, PA 19438	Montgomery	Lower Salford	East Branch Perkiomen and Skippack Creeks
PAG130124	East Lansdowne Borough 155 Lexington Ave. East Lansdowne, PA 19050	Delaware	East Lansdowne	Cobbs Creek
PAG130009	Aldan Borough One W. Providence Rd. Aldan, PA 19018	Delaware	Aldan	Darby Creek
PAG130105	Bristol Borough 250 Pond Rd. Bristol, PA 19007	Bucks	Bristol	Delaware River South
PAG130165	Green Lane Borough P. O. Box 514 Green Lane, PA 18054	Montgomery	Green Lane	Perkiomen Creek

PUBLIC WATER SUPPLY (PWS) PERMITS

The Department of Environmental Protection has taken the following actions on applications received under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17) for the construction, substantial modification or operation of a public water system.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

SAFE DRINKING WATER

Actions taken under the Pennsylvania Safe Drinking Water Act.

Northeast Region: Water Supply Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Operations Permit issued to **Pennsylvania Suburban Water Co.**, 762 West Lancaster Avenue, Bryn Mawr, PA 19010, PWS ID 3480029, Moore Township, **Northampton County** on March 12, 2004, for the operation of facilities approved under Construction Permit N/A.

Operations Permit issued to **Wheatfield Village Homeowners Association**, 115 Wheatfield Court, Milford, PA 18337, PWS ID 2520087, Milford Township, **Pike County** on March 12, 2004, for the operation of facilities approved under Construction Permit N/A.

Southcentral Region: Water Supply Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Permit No. 6702506, Public Water Supply.

Applicant	Shrewsbury Borough
Municipality	Shrewsbury Borough
County	York
Type of Facility	Construction Permit for PW-1 and PW-2 and ancillary facilities. PW-1 and PW-2 will be used at rates of 45 and 30 gallons per minute, respectively. Treatment will be provided at existing, previously permitted facilities.
Consulting Engineer	Charles A. Kehew II, P. E. James R. Holley & Assoc., Inc. 18 South George St. York, PA 17401
Permit to Construct Issued	March 11, 2004

Permit No. 0603517, Public Water Supply.

Applicant **Colebrookdale Woods Retirement Community**
 Municipality Colebrookdale Township
 County **Berks**
 Type of Facility Construction of water system to serve Colebrookdale Woods Retirement Community through interconnection with the Boyertown Water Authority.
 Consulting Engineer Stanley J. Endlich, P. E.
 EDM Consultants Inc.
 1101 South Broad Street
 Lansdale, PA 19446
 Permit to Construct Issued March 10, 2004

Permit No. 0603519 MA, Minor Amendment, Public Water Supply.

Applicant **Village at Summit Crest, LLC/Bradley Management Group Inc.**
 Municipality Maiden creek Township
 County **Berks**
 Type of Facility The construction permit is for the addition of a 10,000-gallon finished water storage tank, pressure tanks and booster pumps to the existing facility.
 Consulting Engineer Eugene F. Long, P. E.
 Stackhouse Seitz Bensinger Inc.
 330 Revere Blvd.
 Sinking Spring, PA 19608
 Permit to Construct Issued March 10, 2004

Permit No. 3604501, Public Water Supply.

Applicant **Gus's Keystone Family Restaurant**
 Municipality Mount Joy Borough
 County **Lancaster**
 Type of Facility Installation of nitrate treatment and a water softener to the existing system.
 Consulting Engineer Eugene R. Oldham, P. E.
 D C Gohn Associates Inc.
 32 Mount Joy Street
 Mount Joy, PA 17552
 Permit to Construct Issued March 19, 2004

Operations Permit issued to **Knouse Foods Cooperative, Inc.**, 7010349, Franklin Township, **Adams County** on March 4, 2004, for the operation of facilities approved under Construction Permit No. 0101502.

Operations Permit issued to **Possum Valley Municipal Authority**, 7010034, Menallen Township, **Adams County** on March 15, 2004, for the operation of facilities approved under Construction Permit No. 0103506.

Operations Permit issued to **Knouse Foods Cooperative, Inc.**, 7010415, Tyrone Township, **Adams County** on March 4, 2004, for the operation of facilities approved under Construction Permit No. 0101503.

Operations Permit issued to **Exelon Generation**, 7670905, Peach Bottom Township, **York County** on March 15, 2004, for the operation of facilities approved under Construction Permit No. 6701505E.

Operations Permit issued to **Pennsylvania American Water Co.**, 7220017, South Hanover Township, **Dauphin County** on March 15, 2004, for the operation of facilities approved under Construction Permit No. 2204503.

Operations Permit issued to **Middle Atlantic Financial, LLC**, 7010051, Berwick Township, **Adams County** on March 23, 2004, for the operation of facilities approved under Construction Permit No. 0103507.

Northcentral Region: Water Supply Management Program Manager; 208 West Third Street, Williamsport, PA 17701.

Permit No. Minor Amendment—Construction, Public Water Supply.

Applicant **Pennsylvania American Water Company**
Steven Seidl, Vice President
 800 West Hersheypark Drive
 Hershey, PA 17033
 Township White Deer Township
 County **Union**
 Type of Facility PWS—Rehabilitation of purification unit no. 1.
 Consulting Engineer Scott M. Thomas, P. E.
 Pennsylvania American Water Company
 800 West Hersheypark Drive
 Hershey, PA 17033
 Permit to Construct Issued March 23, 2004

Permit No. 1999501—Conventional Operational, Public Water Supply.

Applicant **Benton Municipal Water and Sewer Authority**
A. Ross Pennington, Chairperson
 P. O. Box 516
 Benton, PA 17814-0516
 Borough Benton Borough
 County **Columbia**
 Type of Facility PWS—Authorizes operation of an environmental products division pressure sand filtration plant to treat water from the existing Artesian Well No. 1 and sodium hypochlorite and caustic soda feed systems.
 Permit to Operate Issued March 23, 2004

Permit No. 4900501—Conventional Operational, Public Water Supply.

Applicant **Turbotville Borough Municipal Authority**
C. James Yost, Chairperson
 P. O. Box 294
 Turbotville, PA 17772
 Borough Turbotville Borough

County **Northumberland**
 Type of Facility PWS—Authorizes operation of an environmental products division pressure sand filtration plant to treat water from the Warrior Run Spring, a 287,000-gallon finished water storage tank, renovations to the springhouse and approximately 650 feet of distribution main.
 Permit to Operate Issued March 23, 2004

Southwest Region: Water Supply Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Operations Permit issued to **Marion Township Board of Supervisors**, 485 Hartzell School Road, Fombell, PA 16123, PWS ID 5040087 Marion Township, **Beaver County** on March 15, 2004, for the operation of facilities approved under Construction Permit No. 0401505.

Permit No. 465W009-A2, Minor Amendment. Public Water Supply.

Applicant **Ohiopyle Borough**
 P. O. Box 83
 Ohiopyle, PA 15470
 Borough or Township Ohiopyle Borough
 County **Fayette**
 Type of Facility Waterline extension for additional chlorine contact time.
 Consulting Engineer Widmer Engineering, Inc.
 225 West Crawford Avenue
 Connellsville, PA 15425
 Permit to Construct Issued March 15, 2004

SEWAGE FACILITIES ACT PLAN APPROVAL

Plan Approvals Granted under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20a)

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
White	950 Indian Springs Road Indiana, PA 15701-3506	Indiana

Plan Description: The approved plan provides for an expansion of the sewer service areas for the following named projects throughout White Township. Planning is phased in 5-year increments through 2022. Project names are:

1. Indian Springs interceptor improvements/corrective action measures.
2. Erma Street Sewage Pump Station Replacement.
3. Pleasant View Sewage Pumping Station Rehabilitation.
4. Kittyhawk Sewage Pumping Station Construction.
5. Indiana Borough Wastewater Treatment Plant Improvements completed April 30, 2003.
6. McKee Run Drainage Area-Phase II by the Indiana County Municipal Services Authority for 2004.

7. Morganti Wastewater Treatment Plant Upgrade.
8. Village of Fulton Run.
9. Cool Spring Road Sewer Line Extension.
10. Grandview Avenue/Two Lick Drive Collection and Conveyance.
11. South 6th Street Gravity Sewer Line Extension.
12. Fenton Road Collection Sewers.
13. Route 286 East Extension of the East Pike Sewers.
14. Airport Road/Kittyhawk Collector Sewers.
15. Pleasantview Pumping Station Replacement with additional force main.

The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES permits or WQM permits must be obtained in the name of the municipality or authority as appropriate.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 2

The following plans and reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—026.908).

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling analytical results which demonstrate that remediation has attained the cleanup standard selected. Submission of plans and reports, other than the final report, shall also be published in the *Pennsylvania Bulletin*. These include the remedial investigation report, risk assessment report and cleanup plan for a site-specific standard remediation. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media; benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements.

For further information concerning plans or reports, contact the Environmental Cleanup Program manager in the Department regional office after which the notice of receipt of plans or reports appears. If information concerning plans or reports is required in an alternative

form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.

Going Residence, Lower Merion Township, **Montgomery County**. David J. Klink, Environmental Standards, Inc., 1140 Valley Forge Rd., Valley Forge, PA 19482, on behalf of Mr. Going, 1425 County Line Rd., Rosemont, PA has submitted a Final Report concerning remediation of site soils contaminated with fuel oil no. 2. The report was submitted within 90 days of the release and is intended to document remediation of the site to meet the Statewide Health Standard.

Pacetti Site, City of Philadelphia, **Philadelphia County**. Raymond A. Scheinfeld, P. G., Weston Solutions, Inc., 1500 Market St., Suite 1250 West, Philadelphia, PA 19101-2125, on behalf of Philadelphia Dept. of Aviation, C. Davenger, Philadelphia International Airport, Philadelphia, PA has submitted a Final Report concerning remediation of site soils and groundwater contaminated with jet fuel. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Southwest Region: Environmental Cleanup Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Economy Borough Site, Economy Borough, **Beaver County**. Mary A. King, Civil & Environmental Consultants, Inc., 333 Baldwin Road, Pittsburgh, PA 15205 (on behalf of Robertson Ceko Corporation, 5000 Executive Parkway, Suite 425, San Ramon, CA 94583 and Guy Caferalli, 925 8th Street, Ambridge, PA 15003) has submitted a Final Report concerning remediation of site soil and groundwater contaminated with lead and heavy metals. The report is intended to document remediation of the site to meet the Statewide Health Standard for soils and Site Specific Standard for groundwater.

Northwest Region: Environmental Cleanup Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

Pure Sil, Inc., City of Bradford, **McKean County**. Northeastern Environmental Management, 917 West Washington St., Bradford, PA 16701 (on behalf of Raymond W. McMahon, Rep. of Owner, City of Bradford, Office of Economic and Community Development, 20 Russell Blvd., Bradford, PA 16701) has submitted a Baseline Environmental Report concerning remediation of soil and groundwater contaminated with CLSOL. The report is intended to document remediation of the site to meet the special industrial area requirements.

Citizens Bank Butler, City of Butler. CDM, 2740 Smallman St., Suite 100, Pittsburgh, PA 15222 (on behalf of Citizens Bank, 53 State St., MBS920, Boston, MA 02109) has submitted a Final Report concerning the remediation of soil contaminated with leaded gasoline. The report was approved. Final report demonstrated attainment of the special industrial area requirements and was approved by the Department on March 23, 2004.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 3

The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of 25 Pa. Code § 250.8, administration of the Land Recycling and Environmental Remediation Standards Act (act), require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by provisions of the act for compliance with selection of remediation to a site-specific standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media, benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by provisions of the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the Environmental Cleanup Program manager in the Department regional office before which the notice of the plan or report appears. If information concerning a final report is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.

John H. Lamprecht, Tax Blocks 15 and 18, Whitpain Township, **Montgomery County**. Richard C. Karr, P. G., GZA GeoEnvironmental Inc., 500 Office Cen-

ter Dr., Suite 120, Fort Washington, PA 19034, on behalf of John H. Lamprecht, 601 Skippack Pk., Blue Bell, PA 19422, has submitted a Final Report concerning the remediation of site groundwater contaminated with lead, BTEX and MTBE. The Final Report demonstrated attainment of Background Standards and was approved by the Department on March 10, 2004.

Mr. Lee's Cleaners, Upper Moreland Township, **Montgomery County**. Richard Sacks, P. G., ST Environmental Professionals, Inc., 1514 Harmon Rd., Harleysville, PA 19438, on behalf of Goodman Properties, Chris Anderson, 636 Old York Rd., Jenkintown, PA 19046, has submitted a Final Report concerning the remediation of site soils contaminated with chlorinated solvents. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on March 15, 2004.

Appel/Kees Property, Abington Township, **Montgomery County**. Jeffrey E. Goudswaard, Penn E & R, Inc., 2755 Bergey Rd., Hatfield, PA 19440, on behalf of Jane Kees, 2327 Nyslor Ave., Abington, PA 19001-2406, has submitted a Final Report concerning the remediation of site soils contaminated with fuel oil no. 2. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on March 17, 2004.

Commercial/Industrial Warehouse Property, City of Philadelphia, **Philadelphia County**. Ethan E. Prout, P. G., American Resource Consultants, Inc., P. O. Box 579, Quakertown, PA 18951, on behalf of Alan E. Casnoff, Wheatsheaf Lane Assoc., PNA, LP, 642 N. Broad St., Philadelphia, PA 19130, has submitted a Final Report concerning the remediation of site soils contaminated with inorganics (arsenic). The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on March 18, 2004.

MUNICIPAL WASTE GENERAL PERMITS

Permit Issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and municipal waste regulations for a general permit to operate municipal waste processing facilities and the beneficial use of municipal waste.

Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market Street, Harrisburg, PA 17105-8472.

General Permit Application No. WMGM017D003. Four Springs Farm, 9577 Bachelor Road, Kutztown, PA 19530, for the beneficial use of processed manure, yard waste, and the like, for use as a soil additive generated at its facility in Weisenberg Township, **Lehigh County**. The general permit was issued by the Central Office on March 22, 2004.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Permits Issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and regulations to operate solid waste processing or disposal area or site.

Southeast Region: Regional Solid Waste Manager, 2 East Main Street, Norristown, PA 19401.

Permit No. 100930. Philadelphia City Streets Department, Municipal Services Building, 1401 John F. Kennedy Boulevard, Philadelphia, PA 19102-1676, **Philadelphia City, Philadelphia County**. This amended waste management permit is to bring Northwest Transfer Station in the City of Philadelphia into compliance with the radiation protection action plan requirement. The permit was issued by the Southeast Regional Office on March 19, 2004.

Permit No. 101413. Republic Service of PA, 4145 E. Baltimore Pike, Media, PA 19063, Chester City, Delaware County. This amended waste management permit is to bring Republic's McCusker Paper and Salvage Transfer Station in the City of Chester, **Delaware County** into compliance with the radiation protection action plan requirement. The permit was issued by the Southeast Regional Office on March 19, 2004.

Permit No. 101224. Waste Management of Delaware Valley South, 408 South Oak Avenue, P. O. Box 427, Primos, PA 19108. This amended waste management permit is to bring Waste Management of Delaware Valley—South Transfer Station in Upper Darby Township, **Delaware County** into compliance with the radiation protection action plan requirement. The permit was issued by the Southeast Regional Office on March 19, 2004.

Permit No. 101237. JP Mascaro & Sons Inc., 320 Godshall Dr., Harleysville, PA 19438-2008, Franconia Township, **Montgomery County**. This amended waste management permit is to bring the Mascaro Transfer Station in Franconia Township, Montgomery County into compliance with the radiation protection action plan requirement. The permit was issued by the Southeast Regional Office on March 19, 2004.

Permit revoked under the Solid Waste Management Act the Municipal Waste Planning, Recycling and Waste Reduction Act and regulations to operate solid waste processing or disposal area or site.

Southcentral Region: Regional Solid Waste Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Permit No. 603344. Quincy United Methodist Home, P. O. Box 217, Quincy, PA 17247, Quincy Township, **Franklin County**. The permit was revoked at the request of the permittee for Quincy United Methodist Home Site, Quincy Township, Franklin County. The permit was revoked by the Southcentral Regional Office on March 16, 2004.

Persons interested in reviewing the general permit should contact Cynthia Wolfe, File Review Coordinator, Southcentral Regional Office, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, (717) 705-4732. TDD users should contact the Department through the Pennsylvania Relay Service, (800) 654-5984.

AIR QUALITY

General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Ronald Davis, New Source Review Chief, (717) 705-4702.

GP1-22-03058: Central Dauphin School District (600 Rutherford Road, Harrisburg, PA 17109) on March

18, 2004, to authorize the use of the general permit for three natural gas/no. 2 oil fired boilers in Lower Paxton Township, **Dauphin County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Devendra Verma, New Source Review Chief, (814) 332-6940.

37-324: Cemex Inc.—Vanport Stone Mine (SR 168 and 2012, Union Valley Road, Wampum, PA 16157) on March 12, 2004, to operate a portable mineral processing plant in Taylor Township, **Lawrence County**.

Plan Approvals Issued under the Air Pollution Control Act and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790; Mark Wejkszner, New Source Review Chief, (570) 826-2531.

54-313-073D: Air Products and Chemicals, Inc. (357 Marian Avenue, Tamaqua, PA 18252) on March 16, 2004, to modify a nitrogen tri-fluoride operation (North Plant) and associated air cleaning devices at their facility in Rush Township, **Schuylkill County**.

40-305-019B: Lang Filter Media (603 South Church Street, Hazleton, PA 18201) on March 18, 2004, to construct a coal crusher and associated air cleaning device at their facility in Hazleton, **Luzerne County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Ronald Davis, New Source Review Chief, (717) 705-4702.

07-03043A: McLanahan Corp. (200 Wall Street, Hollidaysburg, PA 16648) on March 15, 2004, to construct a cast iron and steel, induction melt furnace in their foundry building in the Borough of Hollidaysburg, **Blair County**.

Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act and 25 Pa. Code §§ 127.13, 127.13a and 127.32.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790; Mark Wejkszner, New Source Review Chief, (570) 826-2531.

35-399-038: Flexible Foam Products, Inc. (P. O. Box 124, Spencerville, OH 45887) on March 17, 2004, to construct a polyurethane foam production operation at their facility in Archbald Borough, **Lackawanna County**. The Plan Approval has been extended.

39-318-111: Gateway Industrial Services (805 Harrison Street, Allentown, PA 18103) on March 22, 2004, to construct two paint spray booths and drying oven with the associated air cleaning devices at their facility in Allentown, **Lehigh County**. The Plan Approval has been extended.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Ronald Davis, New Source Review Chief, (717) 705-4702.

21-05005B: Department of Corrections (P. O. Box 598, Camp Hill, PA 17001) on November 27, 2003, for new boiler no. 4 in Lower Allen Township, **Cumberland County**. This plan approval was extended.

67-03028A: Dentsply International—Trubyte Division (570 West College Avenue, York, PA 17405-0872) on

March 16, 2004, to construct a hard chromium electroplating unit controlled by a multistage mist eliminator in the City of York, **York County**. This plan approval was extended.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; William Charlton, New Source Review Chief, (412) 442-4174.

03-00975B: Dominion Armstrong Services Co., Inc.—Armstrong Energy, LLC (R. D. 3, Box 196, Shelocta, PA 15774). Plan Approval has been modified to clarify allowable emission limits, equipment ratings and terms of CEMS operation at their Armstrong Energy Generating Station in South Bend Township, **Armstrong County**.

11-00506A: Ebensburg Power Co. (P. O. Box 845, 2840 New Germany Road, Ebensburg, PA 15931) on March 15, 2004, to construct a coal refuse pile in Nanty Glo Borough, **Cambria County**. This plan approval was extended.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Devendra Verma, New Source Review Chief, (814) 332-6940.

10-340A: Eagle Printing Co., Inc. (514 West Wayne Street, Butler, PA 16001) on March 12, 2004, to construct a printing plant in Butler, **Butler County**.

Title V Operating Permits Issued under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter G.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Edward Brown, Facilities Permitting Chief, (484) 250-5920.

15-00029: Dopaco, Inc. (100 Arrandale Boulevard, Exton, PA 19341) on March 17, 2004, to operate a Title V Operating Permit in Downingtown Borough, **Chester County**.

Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter F.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Thomas McGinley, New Source Review Chief, (484) 250-5920.

46-00096: Georgia Pacific Corp. (P. O. Box 426, Bala Cynwyd, PA 19004) on March 18, 2004, to operate a Synthetic Minor Operating Permit in Lower Merion Township, **Montgomery County**.

23-00091: Union Packaging, LLC (6250 Baltimore Avenue, Yeadon, PA 19050) on March 18, 2004, to operate a Natural Minor Operating Permit in Yeadon Borough, **Delaware County**.

46-00191: Merck and Co., Inc. (P. O. Box 1000, UG1M-05, North Wales, PA 19486) on March 18, 2004, to operate a Synthetic Minor Operating Permit in Upper Gwynedd Township, **Montgomery County**.

46-00165: Murlin Chemical, Inc. (10 Balligomongo Road, West Conshohocken, PA 19428) on March 18, 2004, to operate a Natural Minor Operating Permit in West Conshohocken Borough, **Montgomery County**.

46-00144: USDA—Eastern Regional Research Center (600 East Mermaid Lane, Wyndmoor, PA 19038) on March 18, 2004, to operate a Synthetic Minor Operating Permit in Springfield Township, **Montgomery County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Ronald Davis, New Source Review Chief, (717) 705-4702.

06-03087: Atofina Chemicals, Inc. (1112 Lincoln Road, Birdsboro, PA 19508) on March 15, 2004, to operate their nylon polymer manufacturing facility in Exeter Township, **Berks County**.

21-03029: Pennsy Supply, Inc. (1001 Paxton Street, P. O. Box 3331, Harrisburg, PA 17105) on March 16, 2004, to operate their crushing operation at their Mount Holly Springs Quarry in Dickinson Township, **Cumberland County**.

36-03101: Pennfield Corp. (3579 Hempland Road, Lancaster, PA 17603) on March 15, 2004, to operate their feed mill in East Hempfield Township, **Lancaster County**.

36-03132: Carvell and Rick, Inc. (1780 Newport Road, Ephrata, PA 17522) on March 17, 2004, to operate their spray booth in West Earl Township, **Lancaster County**.

67-03013: Georgia Pacific Corp. (25 Walnut Street, Mount Wolf, PA 17347) on March 15, 2004, to operate their corrugated paper production facility in the Borough of Mount Wolf, **York County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Devendra Verma, New Source Review Chief, (814) 332-6940.

25-00066: Acurride Erie LP (1015 East 12th Street, Erie, PA 16503) on March 16, 2004, for a Natural Minor Permit to operate a forging plant for the production of aluminum truck wheels and tire molds in Erie, **Erie County**.

Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Thomas McGinley, New Source Review Chief, (484) 250-5920.

23-00045: Sunoco Partners Marketing and Terminal, LP (1801 Market Street, 19/10 PC, Philadelphia, PA 19103) on March 17, 2004, an administrative amendment for Facility Title V Operating Permit in Upper Chichester Township, **Delaware County**.

46-00041: Jefferson Smurfit Corp.—US (1035 Longford Road, Phoenixville, PA 19460) on March 17, 2004, an amendment to a Facility Title V Operating Permit for four lithographic presses in Upper Providence Township, **Montgomery County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Ronald Davis, New Source Review Chief, (717) 705-4702.

06-03038: Stericycle, Inc. (1525 Chestnut Hill Road, Morgantown, PA 19543) on March 18, 2004, to operate an animal crematory and veterinary pathological waste incinerators in Robeson Township, **Berks County**. The State-only operating permit was administratively amended to reflect a change of ownership from Bridgeview, Inc. to Stericycle, Inc. This is Revision No. 1.

06-03057: Borough of Bally (P. O. Box 187, Bally, PA 19503) on March 17, 2004, to operate a dual stripping tower at their facility in the Borough of Bally, **Berks**

County. The State-only operating permit was administratively amended to correct a typographical error in regards to the operation of an air stripper at their water well. This is Revision No. 1.

21-05032: Domestic Casting Co. LLC (North Queen Street, Shippensburg, PA 17257) on March 15, 2004, to operate an iron foundry in Shippensburg Township, **Cumberland County**. The State-only operating permit was administratively amended to reflect a change of ownership from The General Casting Co. to Domestic Casting Co. LLC. This is Revision No. 1.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; William Charlton, New Source Review Chief, (412) 442-4174.

26-00521: Uniontown Cremation Services. (36 N. Gallatin Avenue, Uniontown, PA 15401) on March 15, 2004, to correct a typographical error of the permit expiration date which was issued on November 24, 2003, and will expire on November 24, 2008.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104; Edward Braun, Chief, (215) 823-7584.

S95-064: Philadelphia Baking Co. (9400 Bluegrass Road, Philadelphia, PA 19114) on January 13, 2004, administratively amended to change the mailing address in the City of Philadelphia, **Philadelphia County**. The Synthetic Minor operating permit was originally issued on September 5, 2001. The City of Philadelphia, Air Management Services administratively amended operating permits issued under the Air Pollution Control Act and regulations to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 Water Quality Certification and the NPDES permit application. Mining activity permits issued in response to the applications will also address the application permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

Coal Permit Actions

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.

49921301R2 and NPDES Permit No. PA0596036. Chestnut Coal (R. R. 3, Box 142B, Sunbury, PA 17801-9363), renewal of an existing underground mine operation in Zerbe Township, **Northumberland County**, affecting 5.0 acres. Receiving streams: unnamed tributary to Zerbe Run. Application received February 23, 2004. Renewal issued March 17, 2004.

54830206R4 and NPDES Permit No. PA0613541. Meadowbrook Coal Co., Inc. (6690 SR 209, Lykens, PA 17048), renewal of a coal refuse reprocessing operation in Tremont Township, **Schuylkill County**, affecting 11.1 acres. Receiving streams: Stumps Run. Application received December 19, 2003. Renewal issued March 18, 2004.

54980103R. Gale Coal Company, Inc. (1441 Oak Road, Pottsville, PA 17901), renewal of an anthracite surface mine operation in Frailey Township, **Schuylkill County**, affecting 431.5 acres. Receiving streams: None. Application received August 1, 2003. Renewal issued March 18, 2004.

California District Mining Office: 25 Technology Drive, California Technology Park, Coal Center, PA 15423, (724) 769-1100.

03831305. NPDES Permit No. PA0002283, Keystone Coal Mining Corporation (P. O. Box 291, 400 Overview Drive, Shelocta, PA 15774), to revise the permit for the Jane Mine in Plumcreek Township, **Armstrong County**, for post-mining land use. No additional discharges. Permit issued March 11, 2004.

03901601. NPDES Permit No. PA0214221, Bradys Bend Dock Company (R. R. 1, Box 109, East Brady, PA 16028), to renew the permit for the Blue Row Tipple in Bradys Bend Township, **Armstrong County** and related NPDES Permit. No additional discharges. Permit issued March 19, 2004.

Knox District Mining Office: White Memorial Building, P. O. Box 669, Knox, PA 16232-0669, (814) 797-1191.

33030104. Larry D. Baumgardner Coal Company, Inc. (P. O. Box 186, Lanse, PA 16849), commencement, operation and restoration of a bituminous strip operation in Washington Township, **Jefferson County**, affecting 81.4 acres. Receiving streams: unnamed tributaries to Beaverdam Run and unnamed tributaries to Wolf Run. Application received March 26, 2003. Permit issued March 10, 2004.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.

32823026 and NPDES Permit No. PA0606715. Mahoning Mining, Inc. (P. O. Box 44, New Bethlehem, PA 16242), surface mining permit renewal for reclamation only in South Mahoning Township, **Indiana County**, affecting 56 acres. Receiving streams: unnamed tributary Little Mahoning Creek (HQ-CWF). There are no potable water supply intakes within 10 miles downstream. Application received February 2, 2004. Permit issued March 15, 2004.

56930109 and NPDES Permit No. PA0212571. Mountaineer Mining Corporation (1010 Garrett Shortcut Road, Berlin, PA 15530), permit renewal, reclamation only in Jenner Township, **Somerset County**, affecting 57 acres. Receiving streams: Flat Run and Roaring Run to Quemahoning Creek to Stonycreek (CWF). The first downstream potable water supply intake from the point of discharge is the Cambria Somerset Authority Quemahoning Surface Water Withdrawal. Application received February 26, 2004. Permit issued March 15, 2004.

32980110 and NPDES Permit No. PA0234869. Opal Industries, Inc. (P. O. Box 980, Latrobe, PA 15650), permit renewal for continued operation of a bituminous surface mine in Conemaugh Township, **Indiana County**, affecting 297.0 acres. Receiving streams: unnamed tributaries to and Sulphur Run; unnamed tributaries to and

Blacklegs Creek; and unnamed tributaries to and Kiskimintas River (CWF, WWF). There are no potable water supply intakes within 10 miles downstream. Application received December 23, 2003. Permit issued March 15, 2004.

32030106 and NPDES Permit No. PA0249475. Simpson Coal Company (R. R. 1, Box 244, New Alexandria, PA 15670), for commencement, operation and restoration of a bituminous surface and auger mine in Young Township, **Indiana County**, affecting 9.3 acres. Receiving streams: unnamed tributary to Blacklegs Creek to Blacklegs Creek to the Kiskimintas River to the Allegheny River (CWF, WWF). There are no potable water supply intakes within 10 miles downstream. Application received June 5, 2003. Permit issued March 15, 2004.

Greensburg District Mining Office: Armbrust Building, R. R. 2 Box 603-C, Greensburg, PA 15601-0982, (724) 925-5500.

03990103 and NPDES Permit No. PA0202517. Amerikohl Mining, Inc. (202 Sunset Drive, Butler, PA 16001), renewal permit for reclamation only of an existing bituminous surface mine in Cowanshannock Township, **Armstrong County**, affecting 59.5 acres. Receiving streams: unnamed tributaries to Cowanshannock Creek. Renewal application received February 5, 2004. Renewal permit issued March 16, 2004.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.

41920101 and NPDES Permit No. PA0207195. Fisher Mining Company (420 Market Street, Williamsport, PA 17701), renewal of an existing bituminous surface mine permit in Pine Township, **Lycoming County**, affecting 218.2 acres. Receiving streams: Buckeye Run to Otter Run; Otter Run to Little Pine Creek; and Shinglemill Run to Little Pine Creek to Pine Creek; Pine Creek to West Branch Susquehanna River. Application received September 3, 2003. Permit issued March 9, 2004.

Noncoal Permit Actions

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.

66900303T. Eastern Industries, Inc. (4401 Camp Meeting Road, Suite 200, Center Valley, PA 18034), transfer of a quarry operation in Mehoopany Township, **Wyoming County**, affecting 279.0 acres. Receiving streams: None. Application received August 25, 2003. Transfer issued March 16, 2004.

35030804. Joseph G. Virbitsky (P. O. Box 223, Jermyn, PA 18433), commencement, operation and restoration of a quarry operation in Mayfield Borough, **Lackawanna County**, affecting 5.0 acres. Receiving streams: None. Application received November 14, 2003. Permit issued March 17, 2004.

58030822. Paul A. Kelly (R. R. 3 Box 373, Montrose, PA 18801), commencement, operation and restoration of a quarry operation in Dimock Township, **Susquehanna County**, affecting 5.0 acres. Receiving streams: None. Application received August 19, 2003. Permit issued March 17, 2004.

Knox District Mining Office: White Memorial Building, P. O. Box 669, Knox, PA 16232-0669, (814) 797-1191.

20032808. Lakeland Sand & Gravel, Inc. (7013 Atlantic Lake Road, Hartstown, PA 16131), commencement, operation and restoration of a small noncoal sand and gravel operation in East Fallowfield Township, **Crawford County**, affecting 5.5 acres. Receiving

streams: unnamed tributary to Crooked Creek. Application received September 25, 2003. Permit issued March 12, 2004.

24030805. M & M Contractors (311 W. Center Street, Johnsonburg, PA 15845), commencement, operation and restoration of a small noncoal sandstone operation in Jay Township, **Elk County**, affecting 5.0 acres. Receiving streams: Spring Run. Application received December 22, 2003. Permit issued March 10, 2004.

Greensburg District Mining Office: Armbrust Building, R. R. 2 Box 603-C, Greensburg, PA 15601-0982, (724) 925-5500.

26990301 and NPDES Permit No. PA0202584. Carbon Fuel Resources, Inc. (200 College Drive, Suite 300, Lemont Furnace, PA 15456), NPDES renewal issued for continued operation and reclamation of a noncoal surface mining site in Dunbar Township and Vanderbilt Borough, **Fayette County**, affecting 297 acres. Receiving streams: unnamed tributaries to Dickerson Run to Dickerson Run to the Youghiogheny River. Application received February 13, 2004. Renewal issued March 18, 2004.

ACTIONS ON BLASTING ACTIVITY APPLICATIONS

Actions on applications under the Explosives Acts of 1937 and 1957 (73 P.S. §§ 151—161) and 25 Pa. Code § 211.124. Blasting activity performed as part of a coal or noncoal mining activity will be regulated by the mining permit for that coal or noncoal mining activity.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.

06044006. Schlouch Inc. (Excelsior Industrial Park, P. O. Box 69, Blandon, PA 19510), construction blasting at Country Club Estates 2 in Exeter Township, **Berks County**, with an expiration date of March 23, 2005. Permit issued March 15, 2004.

38024002. Keystone Blasting Service (381 Reifsnyder Road, Lititz, PA 17543), construction blasting at Iron Valley Development in West Cornwall Township, **Lebanon County**, with an expiration date of March 23, 2005. Permit issued March 15, 2004.

46044008. Brubacher Excavating, Inc. (P. O. Box 528, 825 Reading Road, Bowmansville, PA 17507), construction blasting at Mack Excavating Company in Lower Pottsgrove Township, **Montgomery County**, with an expiration date of April 8, 2005. Permit issued March 15, 2004.

36044014. ABEL Construction Company, Inc. (3925 Columbia Avenue, Mountville, PA 17554), construction blasting at Spring Drive Subdivision in Millersville Borough, **Lancaster County**, with an expiration date of April 8, 2005. Permit issued March 15, 2004.

15044006. MF Ronca & Sons (179 Mikron Road, Bethlehem, PA 18020) and **Bernard J. Hasara** (1125 East Mahanoy Avenue, Mahanoy City, PA 17948), construction blasting at Ashland Street Pump Station in Phoenixville Borough, **Chester County**, with an expiration date of April 8, 2005. Permit issued March 15, 2004.

46044009. Warren's Excavating & Drilling, Inc. (P. O. Box 189, Bowmansville, PA 17507-0189), construction blasting at Linfield-Trappe Road Sanitary Sewer Extension in Limerick Township, **Montgomery County**, with an expiration date of April 11, 2005. Permit issued March 15, 2004.

36044015. Keystone Blasting Service (381 Reifsnyder Road, Lititz, PA 17543), construction blasting at Camp Andrews Project, Silver Springs Road in Drumore Township, **Lancaster County**, with an expiration date of May 9, 2004. Permit issued March 18, 2004.

46044010. Joao & Bradley Construction Co., Inc. (P. O. Box 20345, Lehigh Valley, PA 18002) and **AJT Blasting, LLC** (P. O. Box 20412, Bethlehem, PA 18002), construction blasting at sanitary sewer interceptor in Montgomery Township, **Montgomery County**, with an expiration date of December 9, 2004. Permit issued March 18, 2004.

46044011. Joao & Bradley Construction Co., Inc. (P. O. Box 20345, Lehigh Valley, PA 18002) and **AJT Blasting, LLC** (P. O. Box 20412, Bethlehem, PA 18002), construction blasting at Cedar Hill Road—Sanitary Sewer in Horsham Township, **Montgomery County**, with an expiration date of December 9, 2004. Permit issued March 18, 2004.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.

14044005. Banyan Homes (200 Haymaker Circle, State College, PA 16801) for construction blasting in Ferguson Township, **Centre County**, with an expected duration of 150 days. Permit issued March 10, 2004.

14044004. Ameron Construction (2501 North Atherton Street, State College, PA 16803) for construction blasting in Spring Township, **Centre County**, with an expected duration of 107 days. Permit issued March 10, 2004.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P.S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The Department of Environmental Protection (Department) has taken the following actions on previously received permit applications, requests for Environmental Assessment approval and requests for Water Quality

Certification under section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341).

Except as otherwise noted, the Department has granted 401 Water Quality Certification certifying that the construction and operation described will comply with the applicable provisions of sections 301–303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311–1313, 1316 and 1317) and that the construction will not violate applicable Federal and State water quality standards.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P.S. § 7514) and 2 Pa.C.S. §§ 501–508 and 701–704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P.O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P.S. §§ 693.1–693.27), section 302 of the Flood Plain Management Act (32 P.S. § 679.302) and The Clean Streams Law (35 §§ 691.1–691.702) and Notice of Final Action for Certification under section 401 of the FWPCA (33 U.S.C.A. § 1341).

Permits, Environmental Assessments and 401 Water Quality Certifications Issued

WATER OBSTRUCTIONS AND ENCROACHMENTS

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

E39-425. Polaris Park LP, 7562 Penn Drive, Suite 100, Allentown, PA 18106. Upper Macungie and South Whitehall Townships, **Lehigh County**, Army Corps of Engineers Philadelphia District.

To the following activities associated with Polaris Medical Office Building Project:

1. To remove the existing Centronia Road structure and to construct and maintain a 61-foot long, 11-foot by 4-foot box culvert depressed 1 foot below streambed elevation, across a tributary to Cedar Creek (HQ-CWF).

2. To modify and maintain the Schantz Road embankment with work consisting of raising the elevation 1 to 3 feet in the floodway along 180 feet of the left bank of the tributary.

3. To construct and maintain a channel change consisting of realigning and lining approximately 100 feet of the tributary with soil reinforcement matting.

4. To construct and maintain a channel change consisting of reshaping and lining approximately 170 feet of the tributary with soil reinforcement matting.

5. To construct and maintain a 440-foot long retaining wall varying in height between 1-foot and 7-foot in the floodway along the left bank of the tributary.

6. To construct and maintain an outfall structure consisting of three 54-inch diameter concrete pipes with a concrete endwall and a concrete and rip-rap apron in the floodway of the tributary.

7. To construct and maintain various other outfall structures in the floodway of the tributary.

The project is immediately north of the intersection of Centronia Road (SR 3008) and Schantz Road (Allentown West, PA Quadrangle N: 15.8 inches; W: 7.6 inches).

E52-191. PPL Electric Utilities Corporation, Two North Ninth Street, Allentown, PA 18101-1179. Greene Township, **Pike County**, Army Corps of Engineers Philadelphia District, Subbasin 1C.

To construct and maintain a stone access road across PSS wetlands (impacting approximately 0.08 acre/ approximately 250 linear feet) in the drainage basin of Wallenpaupack Creek, for the purpose of maintaining an existing overhead electric line known as the Blooming Grove Jackson 138 kV Line. The permittee is required to provide for 0.08 acre of replacement wetlands by participating in the Pennsylvania Wetland Replacement Project. The project is along the east side of T-389 (Beaver Dam Road), approximately 0.5 mile south of SR 0084 (Newfoundland, PA Quadrangle N: 16.1 inches; W: 5.8 inches).

E45-457. Arrowhead Sewer Co., Inc., H. C. 88, Box 305, Pocono Lake, PA 18347. Coolbaugh Township, **Monroe County**, Army Corps of Engineers Philadelphia District.

To place fill in 0.06 acre of PEM wetlands for the purpose of constructing a new wastewater treatment facility in Arrowhead Lakes residential community. The project also includes a 6-inch diameter sanitary sewer line force main stream crossing of Trout Creek (HQ-CWF) downstream of Arrowhead Lake Dam, two 8-inch diameter sanitary sewer line stream crossings of a tributary to the Lehigh River (HQ-CWF) at the treatment plant site and a temporary road crossing in a tributary to the Lehigh River. The permittee is required to provide 0.06 acre of replacement wetlands. The project is at the end of Lehigh Court, adjacent to the existing facility in the northwestern section of the community (Thornhurst, PA Quadrangle N: 9.0 inches; W: 11.6 inches) (Subbasin: 2A).

E54-299. Eagle Rock Resort Co., 1031 Valley of Lakes, Hazleton, PA 18201-9717. East Union Township, **Schuylkill County**, Army Corps of Engineers Baltimore District, Subbasin 5E.

To maintain fill that was previously placed in the floodway of Tomhicken Creek (CWF) during the construction of a subdivision road named Maverick Way. The project is in the Western Summit section of Eagle Rock Resort, approximately 1.8 miles north of SR 0924 (Nuremberg, PA Quadrangle N: 7.5 inches; W: 0.5 inch). The project directly affected approximately 0.21 acre of floodway on the right side of stream.

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

E67-755: Allan M. Craig IV, 990 Brockie Lane, York, PA 17403 in York Township, **York County**, ACOE Baltimore District.

To construct and maintain a 64-inch by 43-inch by 20-foot long corrugated metal arch culvert in Inners Creek (CWF) at a point approximately 100 feet off Honey Valley Road (York, PA Quadrangle N: 1.8 inches; W: 6.8 inches) in York Township, York County.

E50-218: Centre Township Board of Supervisors, P. O. Box 727, New Bloomfield, PA 17068 in Centre Township, **Perry County**, ACOE Baltimore District.

To remove the existing structure and then to construct and maintain a 42-foot by 7-foot concrete arch culvert at the channel of Little Juniata Creek (CWF) on T-361 (Roth Road) and to fill in a 0.047 acre of de minimis wetland to improve the traffic safety conditions, about 200 feet from its intersection with SR 34 (Newport, PA Quadrangle N: 7.3 inches; W: 7.3 inches) in Centre Township, Perry County. Applicant is not required to provide wetland compensation since the impact is de minimis.

E50-219: Toboyne Township Board of Supervisors, R. D. 1, Box 168, Blain, PA 17006 in Toboyne Township, **Perry County**, ACOE Baltimore District.

To repair and maintain the existing Toboyne Township Bridge No. TBT-3 across Shaeffer Run (HQ-CWF) by underpinning the abutments, placing reinforcing concrete aprons along the existing abutments and removing the center pier and abandoned wooden decking, on Back Hollow Road (T-300) (Blain, PA Quadrangle N: 3.48 inches; W: 6.90 inches) in Toboyne Township, Perry County.

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

E12-147. Lumber Township, 213 Rocky Road, Emporium, PA 15834. Hunts Run Road Project in Lumber Township, **Cameron County**, ACOE Baltimore District (Cameron, PA Quadrangle N: 17.95 inches; W: 3.5 inches and Wharton, PA Quadrangle N: 2.6 inches; W: 16.6 inches, N: 4.6 inches; W: 15.25 inches, N: 5.3 inches; W: 15 inches).

To remove the existing culvert structures and install new culvert structures in four locations along Hunts Run Road. Location 1—installation of five 60-inch diameter culvert pipes in Whitehead Run; location 2—installation of two 60-inch culverts pipes in Colbert Hollow; location 3—installation of two 48-inch culvert pipes in an unnamed tributary to Hunts Run; location 4—installation of two 48-inch culvert pipes in an unnamed tributary to Hunts Run. The total stream impacts for all of these crossings are 150 linear feet and the work does not impact any wetlands. All of these culvert crossings are in areas designated as HQ CWF and are in Lumber Township, Cameron County. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

E57-103. Department of Conservation and Natural Resources, Rachel Carson Office Building, P. O. Box 8451, Harrisburg, PA 17105-8451. Bridge replacement in Laporte Township, **Sullivan County**, ACOE Baltimore District (Eagles Mere, PA Quadrangle N: 12.8 inches; W: 4.2 inches).

To: (1) remove the existing single span steel bridge which is skewed 75 degrees to the roadway baseline with

stone masonry abutments. The existing bridge has a normal span of 28.0 feet, a curb-to-curb width of 13.5 feet, a minimum underclearance of 3.82 feet and a hydraulic opening of 146 square feet; (2) construct and maintain a prestressed concrete spread box beam bridge which is skewed 60 degrees to the roadway baseline, with a single clear span of 35.0 feet, minimum underclearance of 6.2 feet, a curb-to-curb width of 18.0 feet, a normal span of 30.0 feet, a minimum underclearance of 6.2 feet and a hydraulic opening of 185 square feet. R-6 rock will be placed around the superstructure and approximately 20 linear feet will be placed along the right upstream and left downstream channel banks for scour protection; and (3) construct a two-phase temporary diversion system consisting of a dike constructed of precast barrier, polyethylene liner and sandbags. The dike will initially divert water from the near abutment area and then be relocated to divert water from the far abutment area. The project is in Shanersburg Run on Shanersburg Road approximately 0.5 mile from the intersection of Shanersburg Road with SR 154 (Eagles Mere, PA Quadrangle N: 12.8 inches; W: 4.2 inches) in Laporte Township, Sullivan County. The project will not impact wetland while impacting approximately 100 feet of waterway and less than 1 acre of earth.

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

E30-208. Borough of Waynesburg, 90 East High Street, Waynesburg, PA 15370. Waynesburg Borough Municipal Park in the Borough of Waynesburg, **Greene County**, Pittsburgh ACOE District (Waynesburg, PA Quadrangle N: 3.8 inches; W: 7.8 inches) (Latitude: 39° 53' 15" and Longitude: 88° 10' 18"). To improve and maintain the existing Waynesburg Borough Municipal Park by adding parking, a driveway, sidewalk, playground equipment and a picnic pavilion in the 100-year flood plain of Purman Run (WWF). The park is between High and Greene Streets.

E56-328. Turnpike Creamery Partners, LLC, 2279 West Bakersville-Edie Road, Somerset, PA 15501. Retaining wall and fill in Somerset Borough, **Somerset County**, Pittsburgh ACOE District (Somerset, PA Quadrangle N: 3.1 inches; W: 11.05 inches) (Latitude: 40° 01' 02" and Longitude: 79° 04' 43"). To construct and maintain a 140-foot long retaining wall ranging in height between 1 foot and 3 feet and to place and maintain fill for approximately 230 feet along the left bank of an unnamed tributary to East Branch Coxes Creek (WWF) for the purpose of constructing a restaurant and associated parking. The project is off of North Center Avenue.

E63-550. Washington County Commissioners, 100 West Beau Street, Suite 701, Washington, PA 15301. Erskine Road Covered Bridge in West Finley Township, **Washington County**, Pittsburgh ACOE District (Valley Grove, WV-PA Quadrangle N: 12.1 inches; W: 2.37 inches) (Latitude: 40° 03' 59" and Longitude: 80° 30' 58"). To rehabilitate, operate and maintain the existing Erskine Road Covered Bridge (Washington County Bridge No. 1 having a normal clear span of 39.8 feet with a minimum underclearance of 10.1 feet across the channel of Middle Wheeling Creek (WWF). The bridge is on Erskine Road (T-314), just south from the intersection of Erskine Road and Middle Wheeling Creek Road (SR 3018). The project will have R-8 rock scour protection and will impact 37.5 linear feet of perennial stream.

E63-552. Washington County Commissioners, 100 West Beau Street, Suite 701, Washington, PA 15301. Waynesburg Road Covered Bridge in Donegal Township,

Washington County, Pittsburgh ACOE District (Claysville, PA Quadrangle N: 16.0 inches; W: 15.7 inches) (Latitude: 40° 05' 18" and Longitude: 80° 29' 15"). To rehabilitate, operate and maintain the existing Waynesburg Road Covered Bridge (Mays Bridge) having a normal span of 31.8 feet with an underclearance of 5.4 feet across the channel of an unnamed tributary to Middle Wheeling Creek (WWF). The bridge is on T-423 (Waynesburg Road), just north from the intersection of Waynesburg Road and T-360 (Kennedy Road). The project will have R-7 rock scour protection and will impact 50.0 linear feet of stream channel.

E65-834. Derry Township, 650 Derry Road, Derry, PA 15627. Culvert over Saxman Run in Derry Township, **Westmoreland County**, Pittsburgh ACOE District (Derry, PA Quadrangle N: 12.8 inches; W: 13.8 inches) (Latitude 40° 18' 58" and Longitude: 79° 21' 16"). To remove the existing structure and to construct and maintain a reinforced concrete box culvert, with inlet and outlet protection, having a waterway opening of 18 feet wide by 6 feet high (invert depressed 1 foot) and 25.4 feet long in Saxman Run (WWF). The project is on T-32 (Center Street) approximately 100 feet north of T-638.

SPECIAL NOTICES

CATEGORICAL EXCLUSION

Southwest Regional Office, Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Location: Hopewell Township, 1700 Clark Boulevard, Aliquippa, PA 15001.

Description: The Pennsylvania Infrastructure Investment Authority, which administers the Commonwealth's State Revolving Fund, is intended to be the funding source for this project. The Township proposes to renovate the existing Heights and Wilson Pump Stations and portions of the associated sewer system. The Department's review of the project and the information received has not identified any significant, adverse environmental impact resulting from this proposal. The Department hereby categorically excludes this project from the State Environmental Review Process.

[Pa.B. Doc. No. 04-562. Filed for public inspection April 2, 2004, 9:00 a.m.]

Availability of General Permit for Beneficial Use of Biosolids by Land Application (PAG-8)

The Department of Environmental Protection (Department) issues this General Permit for use by eligible persons for the beneficial use of biosolids that will be land applied who are required in 25 Pa. Code Chapters 91, 92 or 271 (relating to general provisions; National Pollutant Discharge Elimination System permitting, monitoring and compliance; and municipal waste management—general provisions), as applicable, to obtain a General Permit for the beneficial use of biosolids in this Commonwealth. The General Permit shall only be valid for eligible persons that have submitted an administratively complete application—a Notice of Intent—to the Department on the prescribed form and have met all applicable technical requirements. This General Permit is issued in accordance with the Federal Clean Water Act, The Clean Streams Law (35 P.S. §§ 691.1—691.1001), sections 1905-A, 1917-A and 1920-A of The Administrative Code of

1929 (71 P.S. §§ 510-5, 510-17 and 510-20), the Solid Waste Management Act (35 P.S. §§ 6018.101—6018.1003) and the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P.S. §§ 4000.101—4000.1904).

Notice of proposed revisions to PAG-8 was originally published at 32 Pa.B. 376 (January 19, 2002) with a 65-day public comment period that closed on March 25, 2002. The Department made further revisions to the draft PAG-8, which were advertised for public comment. Notices for comment on the additional revisions were published at 32 Pa.B. 5213 (October 19, 2002) and 33 Pa.B. 5477 (November 1, 2003) with a 65-day and 30-day comment period, which concluded on December 23, 2002, and November 1, 2003, respectively.

This General Permit will begin on April 3, 2004, and will expire at 12 a.m. on April 2, 2009.

Effective April 3, 2004, this General Permit will replace the current General Permit for the Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site (PAG-8).

The permit documents package will be available from the Department's regional and central offices until it is replaced or updated.

Copies of the permit documents package and comment response documents are available by contacting the Bureau of Water Supply and Wastewater Management, P.O. Box 8467, Harrisburg, PA 17105-8467, (717) 783-3795, trutroutma@state.pa.us. The permit documents package and comment response documents are also available on the Department's website: www.dep.state.pa.us (DEP Keyword: Participate; scroll down to "Proposals Recently Finalized").

Persons with a disability may use the AT&T Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 04-563. Filed for public inspection April 2, 2004, 9:00 a.m.]

Availability of General Permit for Beneficial Use of Exceptional Quality Biosolids (PAG-7)

The Department of Environmental Protection (Department) issues this General Permit for use by eligible persons for the beneficial use of exceptional quality biosolids that will be sold, given away or otherwise distributed in a bag or other container or that will be land applied who are required in 25 Pa. Code Chapters 91, 92 or 271 (relating to general provisions; National Pollutant Discharge Elimination System permitting, monitoring and compliance; and municipal waste management—general provisions), as applicable, to obtain a General Permit for the beneficial use of biosolids in this Commonwealth. The General Permit shall only be valid for eligible persons that have submitted an administratively complete application—a Notice of Intent—to the Department on the prescribed form and have met all applicable technical requirements. This General Permit is issued in accordance with the Federal Clean Water Act, The Clean Streams Law (35 P.S. §§ 691.1—691.1001), sections 1905-A, 1917-A and 1920-A of The Administrative Code of 1929 (71 P.S. §§ 510-5, 510-17 and 510-20), the

Solid Waste Management Act (35 P.S. §§ 6018.101—6018.1003) and the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P.S. §§ 4000.101—4000.1904).

Notice of proposed revisions to PAG-7 was originally published at 32 Pa.B. 377 (January 19, 2002) with a 65-day public comment period that closed on March 25, 2002. The Department made further revisions to the draft PAG-7 which were advertised for public comment. Notices for comment on the additional revisions were published at 32 Pa.B. 5213 (October 19, 2002) and 33 Pa.B. 5477 (November 1, 2003) with a 65-day and 30-day comment period, which concluded on December 23, 2003, and November 1, 2003, respectively.

This General Permit will begin on April 3, 2004, and will expire at 12 a.m. on April 2, 2009.

Effective April 3, 2004, this General Permit will replace the current General Permit for the Beneficial Use of Exceptional Quality Sewage Sludge by Land Application (PAG-7).

The permit documents package will continue to be available from the Department's regional and central offices until it is replaced or updated.

Copies of the permit documents package and comment response documents are available by contacting the Bureau of Water Supply and Wastewater Management, P. O. Box 8467, Harrisburg, PA 17105-8467, (717) 783-3795, trutrutma@state.pa.us. The permit documents package and comment response documents are also available on the Department's website: www.dep.state.pa.us (DEP Keyword: Participate; scroll down to "Proposals Recently Finalized").

Persons with a disability may use the AT&T Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 04-564. Filed for public inspection April 2, 2004, 9:00 a.m.]

Availability of General Permit for Beneficial Use of Residential Septage by Land Application (PAG-9)

The Department of Environmental Protection (Department) issues this General Permit for use by eligible persons who apply residential septage to the land for beneficial use who are required in 25 Pa. Code Chapters 91, 92 or 271 (relating to general provisions; National Pollutant Discharge Elimination System permitting, monitoring and compliance; and municipal waste management—general provisions), as applicable, to obtain a General Permit for the beneficial use of biosolids in this Commonwealth. The General Permit shall only be valid for eligible persons that have submitted an administratively complete application—a Notice of Intent—to the Department on the prescribed form and have met all applicable technical requirements. This general permit is issued in accordance with the Federal Clean Water Act, The Clean Streams Law (35 P.S. §§ 691.1—691.1001), sections 1905-A, 1917-A and 1920-A of The Administrative Code of 1929 (71 P.S. §§ 510-5, 510-17 and 510-20), the Solid Waste Management Act (35 P.S. §§ 6018.101—6018.1003) and the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P.S. §§ 4000.101—4000.1904).

Notice of proposed revisions to PAG-9 was originally published at 32 Pa.B. 377 (January 19, 2002) with a 65-day public comment period that closed on March 25, 2002. The Department made further revisions to the draft PAG-9, which were advertised for public comment. Notices for comment on the additional revisions were published at 32 Pa.B. 5213 (October 19, 2002) and 33 Pa.B. 5478 (November 1, 2003), with a 65-day and 30-day comment period, which concluded on December 23, 2002, and November 1, 2003, respectively.

This General Permit will begin on April 3, 2004, and will expire at 12 a.m. on April 2, 2009.

Effective April 3, 2004, this General Permit will replace the current General Permit for the Beneficial Use of Residential Septage by Land Application to Agricultural Land, Forest, a Public Contact Site, or a Land Reclamation Site (PAG-9).

The permit documents package will be available from the Department's regional and central offices until it is replaced or updated.

Copies of the permit documents package and comment response documents are available by contacting the Bureau of Water Supply and Wastewater Management, P. O. Box 8467, Harrisburg, PA 17105-8467, (717) 783-3795, trutrutma@state.pa.us. The permit documents package and comment response documents are also available on the Department's website: www.dep.state.pa.us (DEP Keyword: Participate; scroll down to "Proposals Recently Finalized").

Persons with a disability may use the AT&T Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 04-565. Filed for public inspection April 2, 2004, 9:00 a.m.]

Delegation of Authority to Implement and Enforce the Federal Plan for Existing Commercial and Industrial Solid Waste Incineration Units in this Commonwealth (Excluding Philadelphia and Allegheny Counties)

On December 1, 2000, under sections 111 and 129 of the 1990 Clean Air Act Amendments, the United States Environmental Protection Agency (EPA) promulgated standards for new commercial and industrial solid waste incineration (CISWI) units in 40 CFR Part 60, Subpart CCCC and emission guidelines in 40 CFR Part 60, Subpart DDDD for "existing" designated CISWI units to control the emissions of designated pollutants (see 65 *Federal Register* 75338, December 1, 2000). The designated pollutants regulated under the guidelines include: particulate matter; metals (cadmium, lead and mercury); acid gases (sulfur dioxide, hydrogen chloride and nitrogen oxides); organic compounds (dioxins and furans); and carbon monoxide. As required under 40 CFR 60.23(a), states must submit a Section 111(d)/129 State Plan for existing CISWI units to the EPA within 12

months after publication of the final emission guidelines to implement and enforce the 40 CFR Part 60, Subpart DDDD requirements or seek delegation of the Federal Plan for CISWI units. Consequently, the Department of Environmental Protection (Department) needed to develop and submit a State Plan for existing CISWI units to the EPA by December 3, 2001, or seek delegation when the Federal Plan requirements for CISWI units were promulgated. The Department decided not to develop a State Plan for CISWI units, but to seek Federal Plan delegation when the Federal Plan requirements were promulgated.

On October 3, 2003, the EPA finalized the Federal Plan requirements for CISWI units constructed on or before November 30, 1999. The Department therefore intends to seek delegation of authority from the EPA to implement and enforce the Federal Plan requirements in 40 CFR Part 62, Subpart III for existing CISWI units.

The existing CISWI units must be in compliance as per the schedule specified in the Federal Plan requirements for CISWI units. In this Commonwealth, excluding Allegheny and Philadelphia Counties, at least 19 existing CISWI units may be subject to the Federal Plan requirements specified in 40 CFR Part 62, Subpart III. Philadelphia County is excluded from these requirements because no affected CISWI units are currently in Philadelphia County. CISWI units in Allegheny County are applicable to the Federal Plan requirements. However, Allegheny County seeks its own separate delegation authority from the EPA.

Persons interested in obtaining additional information regarding this delegation request should contact John Slade, Chief, Division of Permits, (717) 787-9256, jslade@state.pa.us.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 04-566. Filed for public inspection April 2, 2004, 9:00 a.m.]

Environmental Justice Advisory Board Meeting Cancellation

The meeting for the Environmental Justice Advisory Board (Board) scheduled for April 6, 2004, has been cancelled.

The next Board meeting is scheduled for June 1, 2004, in Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg.

Questions concerning this meeting should be directed to Britte Earp, (717) 787-2814, bearp@state.pa.us.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 04-567. Filed for public inspection April 2, 2004, 9:00 a.m.]

Laboratory Accreditation Advisory Committee Meeting Change

The start time for the Tuesday, April 13, 2004, Laboratory Accreditation Advisory Committee meeting has been changed from 10 a.m. to 9 a.m. This meeting will take

place in the First Floor Conference Room, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17105.

Questions concerning this meeting should be directed to Richard Sheibley, (717) 705-2425, rsheibley@state.pa.us. The agenda and meeting materials will be available through the Public Participation Center on the Department of Environmental Protection's (Department) website: www.dep.state.pa.us.

Persons with a disability who require accommodations to attend this meeting should contact the Department at (717) 705-2431 or through the Pennsylvania AT&T Relay Services at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 04-568. Filed for public inspection April 2, 2004, 9:00 a.m.]

Solid Waste Advisory Committee, State Solid Waste Plan Subcommittee Meeting Cancellation

The Solid Waste Advisory Committee, State Solid Waste Plan Subcommittee (Subcommittee) meeting scheduled for Thursday, April 8, 2004, has been cancelled. Notice concerning the next meeting of the Subcommittee will be published in a future edition of the *Pennsylvania Bulletin*.

Questions concerning the Subcommittee or its future meetings should be directed to Sally Lohman, (717) 783-9466, slohman@state.pa.us.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 04-569. Filed for public inspection April 2, 2004, 9:00 a.m.]

Stormwater Manual Oversight Committee Additional 2004 Meetings

The Stormwater Manual Oversight Committee (Committee) has scheduled the following additional meetings for 2004. These meetings supplement this Committee's 2004 meeting schedule which was published at 33 Pa.B. 6463 (December 27, 2003).

June 22, 2004
August 24, 2004
October 26, 2004

The meetings will begin at 10 a.m. in the First Floor Conference Room, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

Questions concerning meetings of the Committee should be directed to Dennis Stum, Bureau of Watershed Management, P. O. Box 8555, Harrisburg, PA 17105-8555, (717) 772-5963, dstum@state.pa.us. The agenda and meeting materials will be available on the Department of Environmental Protection's (Department) website: www.dep.state.pa.us (DEP Keyword: Participate).

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Dennis Stum at (717) 772-5963 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 04-570. Filed for public inspection April 2, 2004, 9:00 a.m.]

DEPARTMENT OF HEALTH

Addition of Generically Equivalent Drugs Under the Generic Equivalent Drug Act

Under section 5 of the Generic Equivalent Drug Act (35 P. S. § 960.5), the Department of Health (Department) is adding the following generically equivalent drugs to the list of generic substitutable drug products.

Infant's Silapap drops (Acetaminophen drops)

Silapap Elixir (Acetaminophen elixir)

Tri-Vitamin with 0.25 mg Fluoride Drops

Poly-Vitamin with 0.25 mg Fluoride Drops

The Department received a request from Silarx Pharmaceuticals, Inc. to add these drugs to the list of generic substitutable drug products and has approved the request. The addition of the listed drugs will become effective upon publication in the *Pennsylvania Bulletin*.

A complete list of generically equivalent drugs may be obtained from the United States Food and Drug Administration.

Persons with a disability who require an alternative format of this notice (for example, large print, audiotape Braille) should contact Theresa Ritchie, Drug, Device and Cosmetic Program, (717) 783-1379, for speech and/or

hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 04-571. Filed for public inspection April 2, 2004, 9:00 a.m.]

Application of Berks Plastic Surgery Institute, PC for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Berks Plastic Surgery Institute, PC has requested an exception to the requirements of 28 Pa. Code § 571.1 (relating to minimum standards), which requires compliance with minimum standards contained in the *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exemption from the following standards contained in this publication: 9.5.D2, 9.5.F2.d, 9.5.F3c, 9.5.F5c, 9.5.F5f, 9.5.F5k, 9.5.H1a, 9.5.H1b and 9.31.B2.

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax: (717) 772-2163, ra-paexcept@state.pa.us.

The facility is requesting a waiver of the comment period as set forth in 28 Pa. Code § 51.33(c).

Persons with a disability who wish to obtain a copy of a request and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care, (717) 783-8980, for speech and/or hearing impaired persons, V/TT: (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 04-572. Filed for public inspection April 2, 2004, 9:00 a.m.]

Decisions on Requests for Exceptions to Health Care Facility Regulations

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), effective June 6, 1998, the Department of Health (Department) has published in the *Pennsylvania Bulletin* all requests by entities licensed under the Health Care Facilities Act (35 P. S. §§ 448.101—448.904b) for exceptions to regulations contained in 28 Pa. Code Part IV, Subparts B—G.

Section 51.33(d) provides that the Department will publish notice of all approved exceptions on a periodic basis. The Department has determined that it will publish notice of all exceptions, both approved and denied. The following list contains the decisions made on exception requests published in the *Pennsylvania Bulletin* from December 1, 2003, through February 29, 2004. Future publications of decisions on exception requests will appear on a quarterly basis.

Requests for additional information on the exception requests and the Department's decision should be made to the relevant division of the Department. Inquiries regarding hospitals and ambulatory surgical facilities should be addressed to the Division of Acute and Ambulatory Care, Sandra Knoble, Director, P. O. Box 90, Harrisburg, PA 17108. Inquiries regarding long-term care facilities should be addressed to the Division of Nursing Care Facilities, William Bordner, Director, P. O. Box 90, Harrisburg, PA 17108. Persons requiring special assistance for speech and/or hearing impairment should call V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-5984 (TT).

Exception Requests—Hospitals

<i>Facility Name</i>	<i>Regulation</i>	<i>Relating to Req.</i>	<i>Published</i>	<i>Decision</i>
Lancaster Regional Medical Center	28 Pa. Code § 51.3(a)	notification	09/20/03	denied
Gettysburg Hospital	28 Pa. Code § 51.6	staff ID	12/20/03	granted
York Hospital	28 Pa. Code § 51.6	ID of personnel	08/23/03	granted
Carlisle Regional Medical Center	28 Pa. Code § 51.23	PET scan services	11/22/03	granted
Clarion Hospital	28 Pa. Code § 51.23	PET scan services	11/20/03	granted
Evangelical Community Hospital	28 Pa. Code § 51.23	PET scan services	12/27/03	granted
St. Mary Medical Center	28 Pa. Code § 51.23	PET scan services	11/20/03	granted
Eagleview Hospital	28 Pa. Code § 107.25(8)	medical staff meetings	11/08/03	granted
Miners Medical Center	28 Pa. Code § 107.26(2)	tissue committee	11/20/03	granted
SCCI—Harrisburg	28 Pa. Code § 107.61	written orders	11/20/03	denied
Bradford Regional Medical Center	28 Pa. Code § 107.62	oral orders	09/20/03	granted
Lehigh Valley Hospital	28 Pa. Code § 107.62	verbal orders—registered dietitians	11/22/03	denied
Lewistown Hospital	28 Pa. Code § 107.62	oral orders—dietician	09/20/03	granted
Abington Memorial Hospital	28 Pa. Code § 107.62(a)	oral orders	11/20/03	denied
DuBois Regional Medical Center	28 Pa. Code § 107.62(b)	oral orders, registered dietitian, occupational therapist and registered speech therapist	01/24/04	granted
Chestnut Hill Hospital	28 Pa. Code § 137.21(b)(5)	policies and procedures	12/20/03	granted
Grand View Hospital	28 Pa. Code § 138.14(b)	diagnostic cardiac catheterization services	11/16/02	denied
Riddle Memorial Hospital	28 Pa. Code § 138.14(b)	diagnostic cardiac catheterization services	11/16/02	denied
Grand View Hospital	28 Pa. Code § 138.15	high risk cardiac catheterization	11/16/02	denied
Memorial Hospital York	28 Pa. Code § 138.15	high risk cardiac catheterization	07/20/02	denied
Riddle Memorial Hospital	28 Pa. Code § 138.15	high risk cardiac catheterization	11/16/02	denied
Grand View Hospital	28 Pa. Code § 138.17(c)	emergent PTCA	11/16/02	denied
Riddle Memorial Hospital	28 Pa. Code § 138.17(c)	emergent PTCA	11/16/02	denied
Chestnut Hill Hospital	28 Pa. Code § 153.1	minimum standards	12/20/03	denied
Jennersville Regional Hospital	28 Pa. Code § 153.1	minimum standards	11/08/03	granted
Montrose General Hospital	28 Pa. Code § 153.1	minimum standards	11/08/03	granted
Select Speciality Hospital at Graduate Hosp. in Phila.	28 Pa. Code § 153.1	minimum standards	11/08/03	denied
Shamokin Area Community Hospital	28 Pa. Code § 153.1	minimum standards	12/20/03	granted
Westmoreland Health System	28 Pa. Code § 153.1	minimum standards	11/08/03	granted
Marian Community Hospital	28 Pa. Code § 153.1(c)	minimum standards	10/19/02	denied
Suburban Gastroenterology	28 Pa. Code § 153.1(c)	minimum standards	09/28/02	not req.

Exception Requests—Ambulatory Surgical Facilities

North Shore Endoscopy Center	28 Pa. Code § 551.3	class levels (ii) class B	11/08/03	granted
Southwestern Endoscopy Center, LLC	28 Pa. Code § 551.3	class levels (ii) class B	12/27/03	granted

<i>Facility Name</i>	<i>Regulation</i>	<i>Relating to Req.</i>	<i>Published</i>	<i>Decision</i>
Temple University School of Podiatric Medicine Ambulatory Surgical Center	28 Pa. Code § 561.2(a)	pharm. service	11/20/03	granted
Keystone Kidney Center	28 Pa. Code § 571.1	minimum standards	11/08/03	granted
Philadelphia Spinal Care Institute	28 Pa. Code § 571.1	minimum standards	11/08/03	granted
Reading Surgery Center	28 Pa. Code § 571.1	minimum standards	11/08/03	granted
Philadelphia Spinal Care Institute	28 Pa. Code § 571.2(d)(e)	elevators	11/08/03	granted
Exception Requests—Nursing Care Facilities				
Phoebe Slate Belt Nursing and Rehab Center	28 Pa. Code § 201.3	definitions	11/08/03	granted
Gwynedd Square Center for Nsng. & Convalescent Care	28 Pa. Code § 201.3	definitions	11/29/03	granted
Somerset Hospital Center for Health	28 Pa. Code § 201.3	definitions	12/20/03	granted
Northhampton County Home—Gracedale	28 Pa. Code § 201.3	definitions	12/20/03	granted
Pocopson Home	28 Pa. Code § 201.3	definitions	12/20/03	granted
Fair Acres Geriatric Center	28 Pa. Code § 201.3	definitions	12/20/03	granted
Wood River Village Nursing Center	28 Pa. Code § 201.3	definitions	12/20/03	granted
Cedar Haven—Lebanon County Home	28 Pa. Code § 201.3	definitions	01/24/04	granted
The Highlands at Wyomissing	28 Pa. Code § 201.3	definitions	01/24/04	granted
Jewish Home of Eastern PA	28 Pa. Code § 201.3	definitions	01/24/04	granted
Lebanon Valley Brethren Home	28 Pa. Code § 201.3	definitions	01/24/04	granted
Heritage Towers	28 Pa. Code § 201.3	definitions	01/24/04	granted
Cedarbrook Nursing Homes	28 Pa. Code § 201.3	definitions	01/24/04	granted
Saint Mary's at Asbury Ridge	28 Pa. Code § 201.3	definitions	01/24/04	granted
Saint Mary's East	28 Pa. Code § 201.3	definitions	01/24/04	granted
St. Paul Homes	28 Pa. Code § 201.3	definitions	01/24/04	granted
Rolling Fields	28 Pa. Code § 201.3	definitions	01/24/04	granted
Nugent Convalescent Home	28 Pa. Code § 201.3	definitions	01/24/04	granted
Clepper Manor	28 Pa. Code § 201.3	definitions	01/24/04	granted
The Lutheran Home at Hollidaysburg	28 Pa. Code § 201.3	definitions	01/24/04	granted
The Lutheran Home at Johnstown	28 Pa. Code § 201.3	definitions	01/24/04	granted
Bradford County Manor	28 Pa. Code § 201.3	definitions	01/24/04	granted
Little Flower Manor of the Diocese of Scranton	28 Pa. Code § 201.3	definitions	01/24/04	granted
Concordia Lutheran Ministries	28 Pa. Code § 201.3	definitions	02/14/04	granted
Mt. Macrina Manor	28 Pa. Code § 201.3	definitions	02/14/04	granted
The Willows of Presbyterian SeniorCare	28 Pa. Code § 201.3	definitions	02/14/04	granted
Harmar Village Care Center	28 Pa. Code § 201.3	definitions	02/14/04	granted
Mahoning Valley Nursing and Rehabilitation Center	28 Pa. Code § 201.3	definitions	02/14/04	granted
Kirkland Village	28 Pa. Code § 201.3	definitions	02/14/04	granted
Church of God Home Inc.	28 Pa. Code § 201.3	definitions	02/14/04	granted
Hanover Hall	28 Pa. Code § 201.3	definitions	02/14/04	granted
Laurel Care Nursing and Rehabilitation Center	28 Pa. Code § 201.3	definitions	02/14/04	granted
Quincy United Methodist Home	28 Pa. Code § 201.3	definitions	02/14/04	granted
Rest Haven—York	28 Pa. Code § 201.3	definitions	02/14/04	granted

<i>Facility Name</i>	<i>Regulation</i>	<i>Relating to Req.</i>	<i>Published</i>	<i>Decision</i>
Valencia Woods Nursing Center	28 Pa. Code § 201.3	definitions	02/21/04	granted
St. Barnabas, Inc.	28 Pa. Code § 201.3	definitions	02/21/04	granted
Butler Memorial Hospital	28 Pa. Code § 201.17	location	10/11/03	granted temporarily
United Community Hospital Transitional Care Unit	28 Pa. Code § 201.18(e)	management	10/11/03	granted
Orchard Manor, Inc.	28 Pa. Code § 201.18(e)	management	10/11/03	denied
Westmoreland Skilled Care Center	28 Pa. Code § 201.18(e)	management	01/24/04	denied
Orchard Manor, Inc.	28 Pa. Code § 205.6(a)	function of building	10/11/03	granted
Forestview	28 Pa. Code § 205.6(a)	function of building	10/11/03	granted
Hamilton Arms Center	28 Pa. Code § 205.6(a)	function of building	11/22/03	granted
Vincentian Regency	28 Pa. Code § 205.6(a)	function of building	11/22/03	granted
The Sarah A. Reed Retirement Center	28 Pa. Code § 205.6(a)	function of building	11/22/03	granted
Beverly Healthcare York Terrace	28 Pa. Code § 205.6(a)	function of building	12/20/03	granted
The 58th Street Presbyterian Home	28 Pa. Code § 205.6(a)	function of building	12/20/03	granted
Jameson Care Center, Inc.	28 Pa. Code § 205.6(a)	function of building	01/24/04	granted
Pennsylvania Soldiers' and Sailors' Home	28 Pa. Code § 205.6(a)	function of building	01/31/04	granted
Armstrong County Health Center	28 Pa. Code § 205.6(a)	function of building	02/14/04	granted
Woodland Place	28 Pa. Code § 205.6(a)	function of building	02/14/04	granted
St. Mary's Villa Nursing Home, Inc.	28 Pa. Code § 205.6(a)	function of building	02/21/04	granted
Hempfield Manor	28 Pa. Code § 205.6(a)	function of building	02/21/04	granted
Beverly Healthcare Phoenixville	28 Pa. Code § 205.26(e)	laundry	02/14/04	granted
Maple Farm Nursing Center	28 Pa. Code § 205.36(b)—(h)	bathing facilities	10/11/03	granted
Village Vista Manor	28 Pa. Code § 205.36(h)	bathing facilities	11/08/03	granted
Landis Homes	28 Pa. Code § 205.66(g)	special ventilation requirements	11/22/03	granted

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 04-573. Filed for public inspection April 2, 2004, 9:00 a.m.]

Requests for Exception; Long-Term Care Nursing Facilities

The following long-term care nursing facilities are seeking an exception to 28 Pa. Code § 201.3 (relating to definitions):

Dr. Arthur Clifton McKinley Health Center
One Laurelbrooke Drive
Brookville, PA 15825
SAIS 421402

Highland View
90 Main Street
Brockway, PA 15824
SAIS 027702

Conestoga View
900 East King Street
Lancaster, PA 17602
SAIS 035302

Pine Run Health Care Center
777 Ferry Road
Doylestown, PA 18901-2199

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 201.18(e) (relating to management):

Transitional Care Center at St. Clair Hospital
1000 Bower Hill Road
Pittsburgh, PA 15243

The following long-term care nursing facilities are seeking an exception to 28 Pa. Code § 205.6(a) (relating to function of building):

Dock Terrace
275 Dock Drive
Lansdale, PA 19446-6215

Grandview Health Homes, Inc.
49 Woodbine Lane
Danville, PA 17821

Sugar Creek Rest
R. D. 2, Box 80
Worthington, PA 16262

Sena Kean Manor
R. D. 1, P. O. Box 3307
Smethport, PA 16749

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.38(a) (relating to toilet facilities):

Hamilton Arms Center
336 South West End Avenue
Lancaster, PA 17603
SAIS 080202

These requests are on file with the Department of Health (Department). Persons may receive a copy of a request for exception by requesting a copy from the Division of Nursing Care Facilities, Room 526, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-1816, fax: (717) 772-2163, ra-paexcept@state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the division and address listed previously.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who require an alternative format of this document or who wish to comment in an alternative format (for example, large print, audiotape or Braille) should contact the Division of Nursing Care Facilities at the address listed previously or for speech and/or hearing impaired persons V/TT: (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 04-574. Filed for public inspection April 2, 2004, 9:00 a.m.]

DEPARTMENT OF LABOR AND INDUSTRY

Innovation and Expansion Grant to Plan, Coordinate and Implement a Statewide Independent Living Conference; OVR RFP 2004-3

The Department of Labor and Industry, Office of Vocational Rehabilitation (OVR), under the Federal Rehabilitation Act of 1973, announces that competing applications to improve community rehabilitation programs serving persons with the most significant disabilities will be accepted.

Funding for this competition is under the auspice of the State Board of Vocational Rehabilitation and the OVR, which will serve as administrator and fiscal agent for the grant awarded under this competition. Applications will be written to accomplish the following area of emphasis.

At 2-year intervals, a Statewide independent living conference (conference) is conducted. The most recent conference was conducted in November 2003. The conference to result from this RFP is tentatively scheduled for Fall 2005. A separate operating fund of \$90,000 will be used by the grantee for the purpose of financing expenses directly related to the 2005 conference. Examples of expenses include: costs of conference facilities; conference speakers' fees; and other necessary expenses directly related to activities at the conference. Prior to the

expenditure of this separate fund, the grantee will submit proposed budgets to the OVR for approval.

In coordination with, and guidance from, the Statewide Independent Living Council:

- The grantee will develop a work plan for a conference. The work plan will include, at minimum: strategies to explore, evaluate and select prospective conference topics; strategies for conference site selection; strategies for selection and recruitment of prospective conference speakers/presenters for conference topics; strategies for conference marketing, public relations and support; strategies for expanding conference attendance to underserved populations; and a prospective budget and cost allocation plan for the conference, including prospective resources of revenue.

- The grantee will convene an independent living conference planning committee (committee) to advise the grantee and assist with planning and coordinating the conference. At a minimum, membership of the committee will consist of persons with significant disabilities, including at least one person who is blind and one person who is deaf. The committee membership will be recruited from a variety of sources, including from populations of people who are traditionally underserved by independent living and rehabilitation services.

- With the assistance of the committee, the grantee will coordinate and facilitate planning activities associated with the conference.

- The grantee will coordinate and implement logistical activities associated with the conference, including announcements and invitations, scheduling of speakers/presenters, onsite conference management, conference security, disability-related accommodations, lodging reservations, as necessary, preparation and distribution of conference program booklets, participant rosters and other arrangements as may be necessary to the conduct of a successful conference.

- The grantee will prepare and submit to the OVR quarterly and year-end reports presenting activity and progress/problems related to the conference.

- The grantee will provide the OVR with stage and cumulative accountings of conference and conference-related expenses and revenues at 90-day intervals throughout the 24-month life of the grant.

- The grantee will provide the OVR with an audited accounting of conference expenses and revenues no later than 90 days following the close of the conference.

Service Information

This competition will result in one 24-month award beginning October 1, 2004. Activities required under this grant competition include those noted in the previous section.

For purposes of this competition, an eligible applicant is an individual, a for-profit or nonprofit organization incorporated under the laws of the Commonwealth or a government agency or political subdivision experienced in effectively planning and implementing conferences of the scope intended, particularly where events have been undertaken on behalf of persons with significant disabilities.

An applicant must have experience in activities, as noted, for a minimum of 3 years prior to the date of application to be considered. A successful applicant must be able to demonstrate the effectiveness of previous experience in its grant application.

Application Information

Applications received by 5 p.m. on May 7, 2004, which are complete and conform to established specifications, will be accepted for review. Applications submitted after this date and time will be ineligible for consideration.

Applications will be evaluated by a panel of reviewers convened for that purpose.

The effective dates for the contract will be October 1, 2004, through September 30, 2006. Final awards made through this competition are subject to the approval of the Executive Director of the OVR.

A complete OVR RFP 2004-3 application package, which includes more detailed information, is available by contacting Jacqueline B. Lucas, Office of Vocational Rehabilitation, Contracts and Grants Management Section, 1521 North Sixth Street, Harrisburg, PA 17102, (717) 787-7016, fax: (717) 705-9345, TDD: (717) 787-4885.

Pre-Proposal Conference

A pre-proposal conference to deal specifically with technical questions regarding applications will be held for applicants on Thursday, April 15, 2004, at 11 a.m. at the OVR Central Office, 1521 North Sixth St., Harrisburg, PA. Copies of the application package will also be available at the pre-proposal conference.

Persons planning to attend the pre-proposal conference who have special needs that should be considered to participate fully should contact Jacqueline B. Lucas at the previous telephone number at least 1 week before the pre-proposal conference.

STEPHEN M. SCHMERIN,
Secretary

[Pa.B. Doc. No. 04-575. Filed for public inspection April 2, 2004, 9:00 a.m.]

Innovation and Expansion Grant to Plan, Coordinate and Implement a Statewide Independent Living Training Program; OVR RFP 2004-2

The Department of Labor and Industry, Office of Vocational Rehabilitation (OVR), under the Rehabilitation Act of 1973, announces that competing applications to improve community rehabilitation programs serving persons with the most significant disabilities will be accepted.

Funding for this competition is under the auspice of the State Board of Vocational Rehabilitation and the OVR, which will serve as administrator and fiscal agent for the grant awarded under this competition. Applications will be written to accomplish the following area of emphasis.

Seventeen centers for independent living (CIL) currently operate in this Commonwealth with Federal or State funds. The successful applicant will provide a minimum of two annual training sessions on topics responsive to the needs of the 17 CILs. Participants in training services provided through this award are CIL personnel and other parties relevant to the effective provision of independent living (IL) services, through IL centers in this Commonwealth (that is, IL customers, OVR personnel, and the like).

An operating fund of \$50,000 will be used by the grantee for the purpose of financing expenses directly related to the provision of training services as specified. Examples of expenses include: the costs of training sites;

instruction/instructor/instructional material expenses; fees of approved consultants; and staff/instructor/trainee travel reimbursement consistent with Commonwealth travel regulations and determined allowable by the OVR. The grantee will submit proposed training budgets to the OVR for approval before completing arrangements for grant-sponsored training programs.

The specific objectives of this grant competition are:

1. Conduct training needs assessment of all the CILs in this Commonwealth within the first 3 months of the grant year.

2. In conjunction with the CILs and the Statewide Independent Living Council (SILC), and based upon the findings of the CIL training needs assessment, develop a training plan for presentation to the OVR and the SILC for review/approval. The plan will be presented for review no later than the end of the fourth month of the project year.

3. Provide or arrange for the provision of a minimum of two training sessions per year on topics responsive to the assessed training needs of the targeted audiences, as previously noted. Training, as provided, must be consistent with the training plan approved by the OVR and the SILC.

4. Training sessions provided through this award will be geographically situated as to be easily accessible to the CILs and their employees, and the like. The physical locations for any training provided through this award must be fully accessible to persons with disabilities.

5. Provide quarterly and final program and fiscal reports to the OVR. The final annual report for the project year must include an objective evaluation of the training services. Evaluation must clearly reflect the input of persons who have received training through the grant.

Service Information

This competition will result in one award and funding for a 3-year period, beginning October 1, 2004. Activities allowable under this grant competition include those noted in the previous section.

The successful applicant will enter a contract with the OVR to serve as the Commonwealth's agent administering services as described.

For purposes of this competition, an eligible applicant is an individual, a for-profit or nonprofit organization incorporated under the laws of the Commonwealth, a government agency or a political subdivision experienced in effectively providing training services and with demonstrable knowledge of the special needs of persons with disabilities.

A successful applicant must be able to demonstrate the effectiveness of previous experience in its grant application.

Application Information

Applications received by 5 p.m. on Friday, May 7, 2004, which are complete and conform to established specifications, will be accepted for review. Applications submitted after this date and time will be ineligible for consideration.

Applications will be evaluated by a panel of reviewers convened for that purpose.

The effective dates for the contract will be October 1, 2004, through September 30, 2005. Final awards made through this competition are subject to the approval of the Executive Director of the OVR.

A complete OVR RFP 2004-2 application package, which includes more detailed information, is available by contacting Jacqueline B. Lucas, Office of Vocational Rehabilitation, Contracts and Grants Management Section, 1521 North Sixth Street, Harrisburg, PA 17102-2913, (717) 787-7016, fax: (717) 705-9345, TDD: (717) 787-4885.

Pre-Proposal Conference

A pre-proposal conference to deal specifically with technical questions regarding applications will be held for applicants on Thursday, April 15, 2004, at 8:30 a.m. at the OVR Central Office, 1521 North Sixth St., Harrisburg, PA. Copies of the application package will also be available at this pre-proposal conference.

Persons planning to attend the pre-proposal conference who have special needs that should be considered to participate fully should contact Jacqueline B. Lucas at the previous telephone number at least 1 week before the pre-proposal conference.

STEPHEN M. SCHMERIN,
Secretary

[Pa.B. Doc. No. 04-576. Filed for public inspection April 2, 2004, 9:00 a.m.]

Innovation and Expansion Grant to Provide Coordination and Administration Services for the PA Telecommunications Device Distribution Program; OVR RFP 2004-4

The Department of Labor and Industry, Office of Vocational Rehabilitation (OVR), under the Federal Rehabilitation Act of 1973 and the Dual Party Relay Service and Telecommunication Device Distribution Program Act (act), announces that competing applications to provide coordination and administration services for the PA Telecommunications Device Distribution Program (TDDP) will be accepted.

Funding for this competition is under the auspice of the State Board of Vocational Rehabilitation and the OVR, which will serve as administrator and fiscal agent for the grant awarded under this competition. Applications will be written to accomplish the following area of emphasis.

The TDDP is intended to provide adaptive telecommunication equipment to persons with disabilities who cannot access telecommunication equipment without adaptive equipment. The equipment is provided free of charge to persons who meet the eligibility criteria for disability and income.

For purposes of this grant award, the TDDP consists of an administrative function and a consumer education function. These two functions have separate funding sources. It is anticipated that the Consumer Education funding will be limited to approximately the level of past years; that funding has been under \$70,000 annually.

The award recipient of this grant will be responsible for administering the TDDP in accordance with the act and guidelines established by the OVR.

The specific objectives of this grant competition are:

- To distribute, accept and process applications for the TDDP and determine eligibility of the persons submitting applications.
- Order appropriate equipment for distribution to eligible persons and approve payment of the equipment through a third party.

- Provide training to the recipient on the equipment purchased, as needed.

- Solicit bids and enter contracts with successful bidders on an annual basis for the equipment as to maintain an approved vendor listing or equipment likely to be purchased.

- Prepare and submit a monthly invoice to the OVR.

- Prepare and submit a quarterly and final report of activities to the OVR.

- Prepare and submit a draft annual budget estimate to the OVR.

- Keep abreast of new and current equipment suitable for the TDDP.

- Ensure the presence of a website with a printable application.

Service Information

This competition will result in one award and funding for a 1-year period, beginning October 1, 2004, with an option for the OVR to renew the award for three successive 1-year periods. Activities allowable under this grant competition include those noted in the previous section.

The successful applicant will enter a contract with the OVR to serve as the Commonwealth's agent administering coordinative and administrative services, as described.

For purposes of this competition, an eligible applicant is an individual, a for-profit or nonprofit organization incorporated under the laws of the Commonwealth or a government agency or political subdivision experienced in effectively managing and operating an eligibility-based equipment distribution program.

A successful applicant must be able to demonstrate the effectiveness of previous experience in its grant application.

Application Information

Applications received by 5 p.m. on May 7, 2004, which are complete and conform to established specifications, will be accepted for review. Applications submitted after this date and time will be ineligible for consideration.

Applications will be evaluated by a panel of reviewers convened for that purpose.

The effective dates for the contract will be October 1, 2004, through September 30, 2005. Final awards made through this competition are subject to the approval of the Executive Director of the OVR.

A complete application package for RFP 2004-4, which includes more detailed information, is available by contacting Jacqueline B. Lucas, Office of Vocational Rehabilitation, Contracts and Grants Management Section, 1521 North Sixth Street, Harrisburg, PA 17102, (717) 787-7016, fax: (717) 705-9345, TDD: (717) 787-4885.

Pre-Proposal Conference

A pre-proposal conference to deal specifically with technical questions regarding applications will be held for applicants on Thursday, April 15, 2004, at 1:30 p.m. at the OVR Central Office, 1521 North Sixth St., Harrisburg, PA. Copies of the application package will also be available at the pre-proposal conference.

Persons planning to attend the pre-proposal conference who have special needs that should be considered to

participate fully should contact Jacqueline B. Lucas at the previous telephone number at least 1 week before the pre-proposal conference.

STEPHEN M. SCHMERIN,
Secretary

[Pa.B. Doc. No. 04-577. Filed for public inspection April 2, 2004, 9:00 a.m.]

DEPARTMENT OF PUBLIC WELFARE

Intergovernmental Transfer of Funds; Extension of County Nursing Facility Payments and Disproportionate Share Payments

The purpose of this announcement is to provide advance notice under 42 CFR 447.205 (relating to public notice of changes in statewide methods and standards for setting payment rates) that during fiscal years (FYs) 2005-2009 the Department of Public Welfare (Department) intends to make changes in its payments to nursing facilities participating in the Medical Assistance (MA) Program.

The Department previously published a notice at 31 Pa.B. 7076 (December 29, 2001) to extend the county transition payments for FYs 2003-2007 and the disproportionate share incentive to qualified nursing facilities for FYs 2003-2005.

On October 16, 2002, and October 21, 2003, the Department entered into agreements with the County Commissioners Association of Pennsylvania that authorize the transfer of funds to the Commonwealth from several counties as authorized under 42 U.S.C.A. § 1396b(w)(6)(A) and 42 CFR 433.51(b) (relating to public funds as the state share of financial participation). The funds from these intergovernmental transfers (IGT) will be used as the State share for a portion of the county transition payments during FY 2007-2008 and FY 2008-2009, respectively, and for the disproportionate share incentive to qualified nursing facilities during FYs 2005-2007 and FY 2007-2008, respectively.

The Department intends to revise its method for setting payment rates for county nursing facilities participating in the MA Program during FYs 2007-2009 to allow for county transition payments to be paid.

The Department also intends to revise the disproportionate share incentive payments to qualified nursing facilities for FYs 2005-2008. The IGT agreement of October 16, 2002, states that for FYs 2005-2007, the disproportionate share per diem incentive shall be paid at two times the disproportionate share per diem incentive calculated in accordance with 55 Pa. Code § 1187.111(c) (relating to disproportionate share incentive payments). The IGT agreement of October 21, 2003, continues to double the disproportionate share per diem incentive through FY 2007-2008.

These proposed changes in nursing facility payments during FYs 2005-2009 are contingent upon all of the following: (1) approval by the Federal government of amendments to the Commonwealth's State Plan authorizing the county transition payments and the disproportionate share incentive payments; (2) the Commonwealth's receipt of IGTs of funds from county governments in

amounts sufficient to make these payments; and (3) the promulgation of regulations to permit county transition payments during FYs 2007-2009 and double disproportionate share payments during FYs 2005-2008.

Fiscal Impact

The estimated increase in annual aggregate expenditures during FYs 2005-2009 is \$55.662 million in total funds (\$25.469 million in State funds).

Public Comment

Interested persons are invited to submit written comments to the Department within 30 days of publication of this notice in the *Pennsylvania Bulletin*. Comments should be addressed to the Department of Public Welfare, Division of Long Term Care Client Services, Attention Gail Weidman, P. O. Box 2675, Harrisburg, PA 17105. Persons with a disability may use the AT&T Relay Services, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users) or the Department's TDD, (717) 787-3616.

ESTELLE B. RICHMAN,
Secretary

Fiscal Note: 14-NOT-381. (1) General Fund; (2) Implementing Year 2003-04 is \$0; (3) 1st Succeeding Year 2004-05 is \$0; 2nd Succeeding Year 2005-06 is \$8,286,000; 3rd Succeeding Year 2006-07 is \$8,534,000; 4th Succeeding Year 2007-08 is \$8,649,000; 5th Succeeding Year 2008-09 is \$0; (4) 2002-03 Program—\$777,084,000; 2001-02 Program—\$761,877,000; 2000-01 Program—\$722,565,000; (7) Medical Assistance—Long Term Care; (8) recommends adoption. This regulatory action announces that the Department intends to make changes in its payments to nursing homes during fiscal years 2005-08 to allow for extension of county transition payments and the doubling of disproportionate share payments. Funding amounts previously listed will come from Intergovernmental Transfer (IGT) funds from county governments as part of an IGT final negotiated agreement.

[Pa.B. Doc. No. 04-578. Filed for public inspection April 2, 2004, 9:00 a.m.]

Payment for Nursing Facility Services; Change in Methods and Standards of Setting Payment Rates; Peer Grouping for Price Setting

The purpose of this announcement is to provide advance notice that the Department of Public Welfare (Department) intends to publish proposed amendments to 55 Pa. Code Chapter 1187 (relating to nursing facility services) and to amend the Commonwealth's Title XIX State Plan provisions regarding the method by which peer groups are established under the case-mix payment system.

§ 1187.94 (relating to peer grouping for price setting)

The Department's case-mix payment system regulations specify that, in setting net operating prices under the current case-mix payment system, the Department classifies each nursing facility participating in the Medical Assistance (MA) Program, except those nursing facilities that meet the definition of a special rehabilitation facility or hospital-based facility, into 12 mutually exclusive peer groups based on Metropolitan Statistical Areas (MSA) group classification and the nursing facility's certified bed complement. See 55 Pa. Code § 1187.94(1). The regulations further state that "the Department will use the

most recent MSA group classification, as published by the Federal Office of Management and Budget (OMB) on or before April 1 of each year" to make the peer group classifications. See 55 Pa. Code § 1187.94(1)(i).

Prior to 2003, the OMB categorized MSAs into three levels based on the total population of the counties in the MSA: Level A (areas with a total population of 1 million or more); Level B (areas with a total population of 250,000 to 999,999); and Level C (areas with a total population of 100,000 to 249,000). The Department's case-mix payment system regulations in 55 Pa. Code § 1187.94(1)(iii) make explicit reference to the three MSA groups (A, B and C) in identifying the 12 peer groups into which nursing facilities are classified under the case-mix payment system.¹

On June 6, 2003, the OMB published revised definitions of MSAs. In publishing these revised MSA definitions, the OMB added definitions for Micropolitan Statistical Areas and Combined Statistical Areas based on Federal Census Bureau data derived from the 2000 census. However, the OMB eliminated the use of the MSA group levels A, B and C that are specifically referenced in 55 Pa. Code § 1187.94(1)(iii).

The OMB's elimination of the three MSA group levels from the most recently published OMB MSA definitions makes it impossible for the Department to apply the existing language of 55 Pa. Code § 1187.94(1) in classifying nursing facilities into peer groups. More specifically, the Department cannot use the most recent MSA group classifications published by the OMB, as required by 55 Pa. Code § 1187.94(1)(i), and also classify nursing facilities into the 12 peer groups identified in 55 Pa. Code § 1187.94(1)(iii). To address this problem, the Department has determined that the language of 55 Pa. Code § 1187.94 should be amended.

In evaluating the alternative ways in which 55 Pa. Code § 1187.94 might be amended, the Department considered the potential effects that adopting the new Federal definitions for MSAs might have on peer group prices and nursing facility rates. The Department's preliminary analyses indicate that a majority of nursing facility providers would be adversely affected (that is, the case-mix payment system would compute lower rates for the majority) if the Department were to adopt the new Federal MSA definitions.

Instead of adopting the new Federal definitions, the Department will propose to amend 55 Pa. Code § 1187.94(1)(i) and the Commonwealth's Title XIX State Plan to specify that the Department will use the MSA group classification published by the OMB in OMB Bulletin No. 99-04 (relating to revised statistical definitions of metropolitan areas and guidance on uses of metropolitan area definitions) to peer group nursing facilities. By using the MSA classification in OMB Bulletin No. 99-04, the Department will maintain the historical MSA groups and will continue to classify each MA nursing facility as MSA A, B or C or as non-MSA. Although the language of 55 Pa. Code § 1187.94 will change, the effect of this amendment will be to preserve the status quo. The Department believes that amending

¹Nursing facilities that are located in counties that are not included in one of the three MSA group levels are classified in a "non-MSA" peer group under 55 Pa. Code § 1187.94(1)(iii).

55 Pa. Code § 1187.94 is in the best interest of both the Department and nursing facility providers. It will enable the Department to ensure that the case-mix payment system takes into account variables that may impact the cost of providing nursing facility services while the Department continues and completes its discussions with the nursing facility industry, consumers and other stakeholders on a more comprehensive overhaul of the case-mix payment system.

Fiscal Impact

This proposed policy change will not directly cause an increase in the annual aggregate expenditures for MA nursing facility services for FY 2004-2005.

Public Comment

A copy of this notice is available for review by contacting Gail Weidman, Long Term Care Policy Section, (717) 705-3705. Interested persons are invited to submit written comments about the changes to the case-mix payment system to the Department within 30 days of publication of this notice in the *Pennsylvania Bulletin*. Comments should be addressed to the Department of Public Welfare, Division of Long Term Care Client Services, Attention Gail Weidman, P. O. Box 2675, Harrisburg, PA 17105. Persons with a disability may use the AT&T Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

Following review and consideration of comments received in response to this notice, the Department intends to publish notice of proposed rulemaking in the *Pennsylvania Bulletin* announcing the proposed amendments to the Department's case-mix payment system regulations.

ESTELLE B. RICHMAN,
Secretary

Fiscal Note: 14-NOT-383. No fiscal impact; (8) recommends adoption.

[Pa.B. Doc. No. 04-579. Filed for public inspection April 2, 2004, 9:00 a.m.]

DEPARTMENT OF REVENUE

[Correction]

Pennsylvania Monte Carlo Instant Lottery Game

The Department of Revenue has discovered a typographical error in a document that originally appeared at 34 Pa.B. 921, 924 (February 14, 2004) and was corrected at 34 Pa.B. 1399, 1400 (March 6, 2004).

In the table which delineates the number and description of prizes and approximate odds, the approximate number of winners per 7,200,000 tickets for the win with a prize of \$500 × 2 should have been 240.

The correct version of that prize line is as follows:

\$500 × 2	\$1,000	30,000	240
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[Pa.B. Doc. No. 04-04-264. Filed for public inspection February 13, 2004, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Actions Taken by the Commission

The Independent Regulatory Review Commission met publicly at 10:30 a.m., Thursday, March 25, 2004, and announced the following:

Regulations Approved

State Board of Accountancy # 16A-5510: CPA Examination (amends 49 Pa. Code §§ 11.4 and 11.11—11.19)

Approval Order

Public Meeting held
March 25, 2004

Commissioners Voting: Alvin C. Bush, Vice Chairperson; Daniel F. Clark, Esq.; Arthur Coccodrilli; Murray Ufberg, Esq.

State Board of Accountancy—CPA Examination; Regulation No. 16A-5510

On February 17, 2004, the Independent Regulatory Review Commission (Commission) received this regulation from the State Board of Accountancy (Board). This rulemaking amends 49 Pa. Code §§ 11.4 and 11.11—11.19. Notice of proposed rulemaking was omitted for this regulation; it will become effective upon publication in the *Pennsylvania Bulletin*. On March 4, 2004, the Board tolled the review of this regulation and simultaneously submitted a revision clarifying the regulation.

This final-omitted regulation implements the transition from the paper-and-pencil Certified Public Accountant (CPA) examination to the new computer-based CPA examination. As part of this transition, it includes provisions to address applicants who have earned conditional credit by passing portions of the paper-and-pencil CPA examination.

We have determined this regulation is consistent with the statutory authority of the Board (63 P. S. § 9.3(a)(12)) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 04-580. Filed for public inspection April 2, 2004, 9:00 a.m.]

Notice of Filing of Final Rulemakings

The Independent Regulatory Review Commission (Commission) received the following regulation on the date indicated. To obtain the date and time of the meeting at which the Commission will consider this regulation, contact the Commission at (717) 783-5417 or visit its website: www.irrc.state.pa.us. To obtain a copy of the regulation, contact the promulgating agency.

Final-Form

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>
7-384	Environmental Quality Board Safe Drinking Water; Long Term 1 Enhanced Surface Water Treatment Rule	3/23/04

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 04-581. Filed for public inspection April 2, 2004, 9:00 a.m.]

INSURANCE DEPARTMENT

Alleged Violation of Insurance Laws; Shawn P. Kendrick; Doc. No. SC04-03-022

Notice is hereby given of the Order to Show Cause issued on March 19, 2004, by the Deputy Insurance Commissioner in the previously referenced matter. Violation of the following is alleged: 40 P. S. § 234 and 31 Pa. Code §§ 37.46—37.48 (relating to standards for denial of certificate/license; revocation, suspension, nonrenewal of certificates and licenses; and reporting requirements).

The respondent shall file a written answer to the Order to Show Cause within 20 days of the date of issue. If the respondent files a timely answer, a formal administrative hearing shall be held in accordance with 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure), 31 Pa. Code Chapter 56 (relating to special rules of administrative practice and procedure) and other relevant procedural provisions of law.

Answers, motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed in writing with the Hearings Administrator, Insurance Department, Administrative Hearings Office, 901 North 7th Street, Harrisburg, PA 17102.

Persons with a disability who wish to attend the administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Tracey Pontius, Agency ADA Coordinator, (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 04-582. Filed for public inspection April 2, 2004, 9:00 a.m.]

Application for Increase in Underwriting Authority of a Domestic Mutual Property Insurance Company

Friends Cove Mutual Insurance Company (Friends Cove), a domestic mutual property insurance company, has filed an application to increase its classes of underwriting authorities. The classes of insurance that Friends Cove has applied to add is as mentioned in 40 P. S.

§ 382(c)(1), (3), (8), (11) and (13). Persons wishing to comment on the application are invited to submit a written statement to the Insurance Department (Department) within 30 days from the date of this issue of the *Pennsylvania Bulletin*. Written statements must include the name, address and telephone number of the interested party, identification of the application to which the statement is addressed and a concise statement with sufficient detail and relevant facts to inform the Department of the exact basis of the statement. Written statements should be directed to Robert A. Kotal, Company Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557, rkotal@state.pa.us.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 04-583. Filed for public inspection April 2, 2004, 9:00 a.m.]

Conseco Senior Health Insurance Company; Rate Filing

Conseco Senior Health Insurance Company is requesting approval to increase the premium 20% for long term care policy forms ATL-HHC-1, ATL-HHC-2, ATL-HHC-3, ATL-HHC-4, ATL-HHC-87 and the associated riders. These forms were originally issued by the American Travelers Life Insurance Company. The average premium will increase from \$863 to \$1,031 and will affect 3,193 policyholders in this Commonwealth.

Copies of the filing are available for public inspection during normal working hours, by appointment, at the Insurance Department's regional offices in Harrisburg.

Interested parties are invited to submit written comments, suggestions or objections to James Laverty, Actuary, Insurance Department, Accident and Health Bureau, Office of Rate and Policy Regulation, 1311 Strawberry Square, Harrisburg, PA 17120 within 30 days of publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 04-584. Filed for public inspection April 2, 2004, 9:00 a.m.]

LIQUOR CONTROL BOARD

Expiration of Leases

The Liquor Control Board seeks the following new site:
Dauphin County, Wine & Spirits Store #2218.

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 4,000 to 5,500 net useable square feet of new or existing retail commercial space located along State Route 322 between the intersection of Cherry Drive to the west and the intersection of State Route 743 to the east in Derry Township, Dauphin County.

Proposals due: April 16, 2004, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, Brandywine Plaza, 2223 Paxton Church Road, Harrisburg, PA 17110

Contact: Charles D. Mooney, (717) 657-4228
JONATHAN H. NEWMAN,
Chairperson

[Pa.B. Doc. No. 04-585. Filed for public inspection April 2, 2004, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Request for Proposals for Administrator of the Pennsylvania Universal Service Fund; RFP 172004-1

A. General Information for Contractors

1. Rejection of Proposals

The Commonwealth reserves the right to reject any and all proposals received as a result of this request or to negotiate separately with competing contractors.

2. Incurring Costs

The Commonwealth is not liable for any costs incurred by contractors prior to issuance of a contract.

B. Procurement Description

The Pennsylvania Public Utility Commission (Commission) requests written proposals to serve as the third-party administrator (Administrator) of the Pennsylvania Universal Service Fund (Fund). The Administrator is responsible for administering the Fund from January 1, 2005, through and including December 31, 2006. The Administrator is responsible for collecting pro rata contributions based on telecommunications service providers' intrastate end-user telecommunications retail revenues, at a rate set by the Commission, and depositing these revenues into the Fund. The Administrator will also distribute money from the Fund on the first of each month to approximately 32 rural telephone carriers. The role of the Administrator is described in 52 Pa. Code § 63.167 (relating to administrator's duties), as follows:

(1) Maintain a database to track contributing telecommunications providers.

(2) Develop Commission-approved forms to be used by all telecommunications service providers to report monthly contributions.

(3) Review the completed forms to ensure completeness and accuracy of reported revenue and Fund assessments and contact providers whose accounts contain unexplained variances in reported revenues or Fund assessments.

(4) Assess late-payment charges of 1.5% per month pro rata per diem on contributions that are 30 days past due.

(5) Send initial notices of delinquency to all delinquent contributors when a payment is 30 days past due and follow up with at least one subsequent

written notice and/or phone call to the contributor to pursue collection of Fund payments that are 60 days past due.

(6) Maintain logs of notices of delinquent contributors and refer to the Commission for further enforcement, on a monthly basis, all accounts more than 90-days past due.

(7) Immediately inform the Commission if the Administrator has reason to believe that any telecommunications provider has submitted false information to the administrator with the intent of obtaining fraudulent funding, under-reporting end-user revenue or if any other irregularity occurs in the operation or administration of the Fund.

(8) Invest Fund moneys in interest-bearing instruments designed to minimize risk of loss while providing maximum liquidity; permitted investments shall include:

(i) Marketable obligations directly and fully guaranteed by the United States government.

(ii) Federally-insured checking, money market accounts, or certificates of deposit.

(iii) Other accounts as expressly approved by the Commission.

(9) Promptly advise the Commission if the administrator's data analysis projects a potential fund shortfall or if Fund disbursements exceed receipts in a given month.

(10) In January of each year, mail reporting forms to each telecommunications service provider to acquire appropriate data to compute the individual provider's aggregate intrastate end-user telecommunications retail revenue and to compute year-end access line growth percentages for development of the following year's Fund amount.

(11) Cooperate with the independent auditor selected by the Commission, and provide data and information reasonably required to support audit activities.

(12) Promptly respond to Commission requests for information pertaining to Fund administration.

(13) Maintain adequate principal liability insurance coverage, criminal liability coverage, and a sufficient umbrella liability policy.

(14) Prepare reports of fund activity for the Commission on a monthly basis detailing carrier assessments, delinquent payers, late-payment charges (if applicable), fund disbursements, interest earned, and cumulative results.

(15) Maintain records by contributor and by recipient.

(16) Provide any additional reports as requested by the Commission.

(17) Maintain a statement of financial condition (balance sheet) and income statement for the total fund, and a sources and uses of funds statement, which will tie to the total fund income statement.

(18) Deliver the balance sheet, income statement, and sources and uses of funds statement to the Fund auditor by May 1 of each year so that the auditor may prepare its report.

(19) Maintain a system of internal controls.

(20) Consider the auditor's report in preparing the annual report for submission to the Commission and include any undercollections or overcollections identified by the audit report in developing a proposed budget for the upcoming fiscal year.

(21) Submit the administrator's annual report by September 1 or 60 days following receipt of the audit report, whichever is later.

(22) With prior Commission approval, borrow monies to cover the short-term liabilities of the Fund caused by undercollections.

(23) If short-term borrowing is necessary, the administrator shall provide formal notice on a timely basis to the Commission which identifies the amount, the proposed lending source, and the terms and conditions of the loan.

(24) Comply with procedures and guidelines established by the Commission, but may request the Commission amend, modify or delete procedures or guidelines, (the administrator will not have the authority to develop or interpret the Commission's procedures or guidelines with respect to the Fund, and any dispute between the administrator and any contributing telecommunications provider shall be submitted to the Commission for resolution).

(25) Have access to the books of account of all telecommunications service providers to the limited extent necessary to verify their intrastate end-user telecommunications retail revenues and other information used by the administrator in determining assessments and disbursements for the Fund.

(26) Treat any competitive and financial information received as confidential and proprietary, and only release said information upon order of the Commission.

(27) Operate on a fiscal year which shall be the same as the calendar year.

C. Purpose of Fund

At this time, the Fund is currently intended to reduce and restructure access charges and intraLATA toll rates and to encourage greater toll competition while enabling carriers to continue to preserve the affordability of local service rates. *Rulemaking Re Establishing Universal Service Fund Regulations at 52 Pa. Code §§ 63.161—171*, Final Rulemaking Order at L-00000148 (November 29, 2000). The regulations governing administration of the Fund are in 52 Pa. Code Subchapter L (relating to universal service). They may be accessed, as well as other Orders and pertinent information regarding the Fund, at the Commission's website: www.puc.paonline.com. Click on "Competition and Choice," "Local Telephone Competition," "Universal Service Fund."

D. The Fund and the Administrator

Commission regulations allow for an assessment which is computed annually under 52 Pa. Code § 63.169 (relating to collection of universal service fund contributions) at a rate calculated by dividing the contributing telecommunications provider's associated total intrastate end-user telecommunications retail revenues by Statewide total intrastate end-user telecommunications revenues. End-user revenues expressly do not include revenues received from access, resale (toll or local) of unbundled network elements or other services provided which are essentially wholesale in nature. Total end-user revenues shall in-

clude all revenues received from subscribers who actually consume the final service unadjusted for any expense or any other purpose.

Nearly 300 companies will contribute monthly to the Fund. These include 35 incumbent local exchange carriers. The remainder of participants are companies selling intrastate toll services and competitive local exchange carriers who are either offering local exchange services or are planning to do so in the near future. Wireless telecommunications carriers do not participate as either recipients or contributors in the Fund. Carriers are not allowed to pass through as a direct surcharge to their customers any contributions made to the Fund.

The Administrator functions as the "financial hub" of this system. The Administrator collects the contributions from the individual companies, manages the Fund's cash flow and disburses payments to 31 small rural companies and Sprint/United Fund recipients under the regulations. The Fund assessment rate is set annually by the Commission based on data submitted in annual reports by the Administrator. The Administrator also works with the Fund Auditor.

The Administrator may be an individual or an organization. An organizational bidder may have sufficient resources on staff. An individual bidder probably would need to develop formal or informal relationships with other organizations, such as banks. For example, an individual bidder would probably want to develop a "lock box" system at a bank to collect receipts and use a bank's commercial or trust operations for making short-term investments.

E. Administrator Criteria

Under 52 Pa. Code § 63.166 (relating to administrator criteria), the Administrator shall meet the following criteria:

(1) The Administrator shall be neutral, impartial and independent from telecommunications service providers operating in this Commonwealth.

(2) The Administrator shall not advocate specific positions before the Commission in nonuniversal service administrative proceedings related to common carrier issues.

(3) The Administrator shall not be an affiliate of any provider of telecommunications services.

(4) If the Administrator has a board of directors that includes members with direct financial interests in entities that contribute to or receive support from the Fund, no more than a third of the board members may represent any one category (for example, local exchange carriers or interexchange carriers) of contributing carriers or support recipients, and the Board's composition must reflect the broad base of contributors to and recipients of Fund assets. For purposes of this restriction, a direct financial interest exists where the Administrator or Board member:

- (a) Is an employee of a telecommunications carrier.
- (b) Owns equity interests in bonds or equity instruments issued by any telecommunications carrier.
- (c) Owns mutual funds that invest more than 50% of its assets in telecommunications securities.

F. Contract for Services

The successful bidder will negotiate with the Commission a detailed contract that is generally consistent with the standard Commonwealth contract for personal ser-

vices. The contract will be for a term beginning on January 1, 2005, or as soon thereafter as can be arranged, and ending December 31, 2006. Once selected, the Administrator will be terminated during this term only for good cause.

The contract:

- 1. Will cover 2 years.
- 2. May need to be amended later if the legislature authorizes or mandates changes.
- 3. May elaborate further on the Administrator's duties, including:

(a) Clarifying reporting requirements for the Administrator and in particular concerning compliance with Generally Accepted Government Auditing Standards.

(b) Periodic financial reporting and revenue estimating requirements.

(c) Cooperating with a new Administrator following termination of the contract so that there will be a smooth transition to the new administration of the Fund.

To the extent that any changes as a result of contract negotiations affect the cost of performing the contract, adjustments from compensation described in the bid will be negotiated with the winning bidder.

G. Proposal Submissions

An original and five copies of the proposals should be submitted directly to the Evaluation Committee Chairperson, Frank B. Wilmarth, Deputy Chief Counsel, Pennsylvania Public Utility Commission, Law Bureau, P. O. Box 3265, Harrisburg, PA 17105-3265. Proposals should be received by 5 p.m. on June 1, 2004. No late proposals will be considered. The proposal should be broken into three separate parts, two of which should be in separate sealed envelopes marked "price quotation" and "Disadvantaged Business Information," respectively.

Part 1—General Information

The first part of each proposal should include a general discussion of the approach the bidder will take and explain how the bidder will meet each requirement. In addition, this part of the proposal should identify all individuals who will work on significant tasks, explain the qualifications of each and how many hours the individual will likely work on their respective tasks on a monthly basis. A single individual should be identified to serve as Fund Administrator and that individual's resume should be attached. Resumes for other identified persons with significant responsibility should also be attached.

If the bidder wishes to associate with another organization, such as a bank, to provide the required services, the bid should include a separate statement from that organization describing its anticipated role.

In addition, if the bidder, or any of its associates, has an affiliate or representational relationship with a Commission-regulated telecommunications carrier, the bidder must disclose that relationship and explain, in detail, the measures that will be taken to avoid any conflict of interest that may arise as a consequence of this contract. Written documentation demonstrating, as deemed appropriate by the Commission, that measures have been taken to avoid any conflict of interest is required.

Part 2—Cost Information

The second part of the proposal document should be a price quotation, which should not be in the main text of

the proposal but rather kept separate in a separate sealed envelope, marked "price quotation." The price quotation should cover the period from January 1, 2005, through December 31, 2006. A cost data sheet should be submitted in this separate sealed envelope and it should include a breakdown of costs. Bidders are free to structure their price offerings in any way they choose. However, this part of the bid should specifically describe:

1. One-time startup costs, presumably to be paid in the first year.
2. Fixed annual costs for each of the contract years. This should cover most anticipated expenses, such as personnel, office costs and overhead, and may include an allowance for travel. The amount may vary for each year based upon expected inflation.
3. Any contingency costs. This might include functions like defense of lawsuits.
4. If the winning bidder actually begins work after January 1, 2005, how compensation will be proportionally adjusted.

Failure to submit the cost data sheet in a sealed envelope kept separate and apart from the rest of the proposal will result in automatic rejection of the proposal by the Evaluation Committee (Committee).

Part 3—Disadvantaged Business Information

The Commonwealth encourages participation by small disadvantaged businesses as prime contractors, joint ventures and subcontractors/suppliers and by socially disadvantaged businesses as prime contractors.

Small disadvantaged businesses are small businesses that are owned or controlled by a majority of persons, not limited to members of minority groups, who have been deprived of the opportunity to develop and maintain a competitive position in the economy because of social disadvantages. The term includes: (1) Department of General Services, Bureau of Minority and Women Business Opportunities (BMWBO) certified minority business enterprises (MBEs) and women business enterprises (WBEs) that qualify as small businesses; and (2) United States Small Business Administration certified 8(a) small disadvantaged business concerns.

Small businesses are businesses in the United States that are independently owned, are not dominant in their field of operation, employ no more than 100 persons and earn less than \$20 million in gross annual revenues (\$25 million in gross annual revenues for businesses in the information technology sales or service business).

Socially disadvantaged businesses are businesses in the United States that the BMWBO determines are owned or controlled by a majority of persons, not limited to members of minority groups, who are subject to racial or ethnic prejudice or cultural bias, but which do not qualify as small businesses. For a business to qualify as "socially disadvantaged," the offeror must include in its proposal clear and convincing evidence to establish that the business has personally suffered racial or ethnic prejudice or cultural bias stemming from the business person's color, ethnic origin or gender.

Questions regarding this program should be directed to the Department of General Services, Bureau of Minority and Women Business Opportunities, Room 502, North Office Building, Harrisburg, PA 17125, (717) 787-6708, fax: (717) 772-0021, Gs-cabidinternet@state.pa.us.

Program information and a database of BMWBO certified minority and women owned businesses can be ac-

cessed at www.dgs.state.pa.us (DGS Keyword: MWBO). The Federal vendor database can be accessed at www.ccr.gov (choose "Dynamic Small Business Search" (certified companies are so indicated)).

To receive credit for being a Small Disadvantaged Business or Socially Disadvantaged Business (collectively SDBs), entering into a joint venture agreement with a Small Disadvantaged Business or subcontracting with a Small Disadvantaged Business (including purchasing supplies and/or services through a purchase agreement), a company must include proof of Disadvantaged Business qualification in the Disadvantaged Business portion of the proposal:

- Small Disadvantaged Business qualifying as a result of MBE/WBE certification from the BMWBO must provide a photocopy of their BMWBO certificate.
 - Disadvantaged Businesses qualifying as a result of 8(a) certification from the United States Small Business Administration must submit proof of Small Business Administration Certification. The owners of these businesses must also submit proof of United States citizenship.
 - All companies claiming Small Disadvantaged Business status, whether as a result of BMWBO certification or Small Business Administration certification as an 8(a) disadvantaged business, must attest to the fact that the business has 100 or fewer employees.
 - All companies claiming Small Disadvantaged Business status, whether as a result of BMWBO certification or Small Business Administration certification as an 8(a) disadvantaged business, must submit proof that their gross annual revenues are less than \$20 million (\$25 million for businesses in the information technology sales or service business). This can be accomplished by including a recent tax or audited financial statement.
- Companies claiming status as a Socially Disadvantaged Business must include in the Disadvantaged Business portion of the proposal clear and convincing evidence to establish that the business has personally suffered racial or ethnic prejudice or cultural bias stemming from the business person's color, ethnic origin or gender. The submitted evidence of prejudice or bias must:
- Be rooted in treatment which the business person has experienced in American society, not in other countries.
 - Show prejudice or bias that is chronic and substantial, not fleeting or insignificant.
 - Indicate that the businessperson's experience with the racial or ethnic prejudice or cultural bias has negatively impacted on his or her entry into and/or advancement in the business world.

The BMWBO shall determine whether the contractor has established that a business is socially disadvantaged by clear and convincing evidence.

In addition to these verifications, to receive credit for being a SDB this portion of the proposal must include the following information:

- (1) The name and telephone number of the project (contact) person for SDBs.
- (2) The company name, address and telephone number of the prime contact person for each specific SDBs included in the proposal. The contractor must specify the SDBs to which it is making commitments. The contractor will not receive credit by stating that it will find a Small

Disadvantaged Business after the contract is awarded or by listing several companies and stating it will select one later.

(3) The specific work, goods or services the SDBs will perform or provide.

(4) The location where the SDBs will perform these services.

(5) The timeframe for the SDBs to provide or deliver the goods or services.

(6) The amount of capital, if any, the SDBs will be expected to provide.

(7) The form and amount of compensation each SDB will receive.

(8) The percent of the total value of services or products purchased/subcontracted under the proposal that will be provided by the SDBs.

(9) In the case of a joint venture agreement, a copy of the agreement, signed by all parties, must be included in the Disadvantaged Business portion of the proposal. If subcontracting, a signed subcontract or letter of intent must be included in the Disadvantaged Business portion of the proposal.

The Disadvantaged Business portion of the proposal must be clearly identified as Disadvantaged Business Information and sealed in an envelope separately from the remainder of the proposal. Only one copy of the Disadvantaged Business section is needed. The dollar value of the commitment to each SDB must be sealed in the same envelope with the Disadvantaged Business portion of the proposal. The selected contractor's Disadvantaged Business commitment amount, name of Disadvantaged Business and services to be provided, including timeframe for performing services, will be included as a contractual obligation when the contract is executed.

The following options will be considered as part of the final criteria for selection:

Priority Rank 1. Proposals submitted by Small Disadvantaged Businesses.

Priority Rank 2. Proposals submitted from a joint venture with a Small Disadvantaged Business as a joint venture partner.

Priority Rank 3. Proposals submitted with subcontracting commitments to Small Disadvantaged Businesses.

Priority Rank 4. Proposals submitted by Socially Disadvantaged Businesses.

Each proposal will be rated for its approach to enhancing the utilization of Disadvantaged Businesses. Each approach will be evaluated with option number one receiving the greatest value and the succeeding options receiving values in accordance with the previously listed priority ranking.

To the extent that a proposal is submitted by an SDB and the SDB cannot enter into subcontract arrangements for more than 40% of the total estimated dollar amount of the contract to other contractors, the Disadvantaged Business participation scoring shall be proportionally lower for that proposal.

Contracts containing Disadvantaged Business participation must also include a provision requiring the contractor to meet and maintain those commitments made to Disadvantaged Businesses at the time of the proposal submittal or contract negotiation, unless a change in the commitment is approved by the BMWBO. Contracts

containing Disadvantaged Business participation must include a provision requiring Small Disadvantaged Business subcontractors and Small Disadvantaged Businesses in a joint venture to perform at least 50% of the subcontract or Small Disadvantaged Business portion of the joint venture.

Commitments to Disadvantaged Businesses made at the time of the proposal submittal or contract negotiation must be maintained throughout the term of the contract. Any proposed change must be submitted to the BMWBO, which will make a recommendation as to a course of action to the contracting officer. If a contract is assigned to another contractor, the new contractor must maintain the Disadvantaged Business' participation of the original contract.

The contractor shall complete the Prime Contractor's Quarterly Utilization Report (or similar type document containing the same information) and submit it to the contracting officer of the agency that awarded the contract and the BMWBO within 10 workdays at the end of each quarter the contract is in force. If there was no activity, the form must also be completed, stating "No activity in this quarter." This information will be used to determine the actual dollar amount paid to Small Disadvantaged Business subcontractors and suppliers and Small Disadvantaged Businesses involved in joint ventures. Also, it is a record of fulfillment of the commitment your firm made and for which it received Disadvantaged Business points.

Note: Equal employment opportunity and contract compliance statements referring to company equal employment opportunity policies or past contract compliance practices do not constitute proof of Disadvantaged Business status or entitle a proposer to receive credit for Disadvantaged Business utilization.

H. Pre-Proposal Conference

There will be no pre-proposal conference. However, potential bidders may seek answers to questions by submitting questions in writing to Frank B. Wilmarth, Deputy Chief Counsel, Pennsylvania Public Utility Commission, Commonwealth Keystone Building, P. O. Box 3265, Harrisburg, PA 17105, (717) 772-8841, (717) 783-3458, fwilmarth@state.pa.us. If questions of general interest are presented, the Commission may communicate the question and its answer in writing to persons who have expressed an interest in receiving the material. Contact the Commission at the same number to receive this material. Questions regarding this Request for Proposals must be received before June 1, 2004.

I. Proposal Review

1. Evaluation Procedure

The Committee (which consists of at least five individuals with appropriate technical and managerial experience) will perform a preliminary evaluation based upon the criteria in this Request for Proposals (RFP) and will score the technical portion of the proposals using an evaluation score sheet. Proposals that meet the RFP requirements are ranked in order of merit. A maximum point value for each criterion and a total point value for all criteria will have been established by the Committee before opening the proposals.

The Committee will review proposals according to four major criteria:

- Price

Price will be a principal consideration. Since bids may include one or more segments that are being bid at a

monthly or otherwise variable price, bids may not be directly comparable in terms of a single dollar amount. However, the Commission will consider all of the fixed and variable prices contained in the bid in evaluating it. Compensation paid to the Administrator will be paid from the Fund and the Commission will pay no compensation.

- **Quality of Performance**

The bidder's expected quality of performance will be the second principal consideration. Within this category, the Commission will consider the bidder's understanding of the duties of the Fund Administrator, the bidder's probable success in discharging the duties of Administrator and the bidder's prior experience with administering other similar funds. The Commission will also consider the quality of each person expected to work, the number of hours each person is expected to work, and on what specific tasks.

- **Independence**

The Commission is seeking a neutral, independent third-party. Independence from affiliated relationships with any telecommunications carriers is preferred. If the bidder, or any of its associates, has an affiliate or representational relationship with a Commission-regulated telecommunications carrier, the bidder must disclose that relationship and explain, in detail, the measures that will be taken to avoid any conflict of interest that may arise as a consequence of this contract.

- **Disadvantaged Business Status**

2. *Best and Final Offers*

The Commission will disqualify any bidder whom the Commission believes cannot be expected to perform reliably as Administrator.

(a) Discussions and negotiations may be conducted with offerors for the purpose of obtaining best and final offers.

(1) Discussions are limited to responsible offerors. Responsible offerors are those offerors that have submitted responsive proposals and possess the capability to fully perform the contract requirements in all respects and the integrity and reliability which assure good faith performance.

(2) In conducting these discussions and negotiations, there shall be no disclosure of any information derived from proposals submitted by competing offerors.

(3) Offerors may be given the opportunity to revise their proposals.

(4) It is imperative that offerors must be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals.

(b) *Procedure.* The Committee chairperson will send a letter to each offeror inviting the offerors to discuss the technical and cost changes to their proposal desired by the agency. A list of the changes will be appended to each letter. The list should be based on the suggested changes by committee members as documented during the tentative evaluation.

(1) The Committee chairperson or a member of the Committee designated by the chairperson will conduct the discussions and negotiations. All Committee members should be present and actively assist the negotiator. Discussions and negotiations involving Disadvantaged Business participation will be conducted by the BMWBO. The discussions/negotiations should be free, full and open. Where appropriate, the offeror should be given an expla-

nation of the agency's reason for a requested change. This is especially true when the offeror appears reluctant to accept the change. However, it is not expected that offerors will accept the agency's position on all issues. After discussions/negotiations of each issue, the Committee chairperson or designee should state the agreement reached on that issue. The agreement need not be precisely what either the agency or the offeror are willing to accept should a contract ensue. The discussions/negotiations should be tape recorded, if convenient. If not, a Committee member or a stenographer should record the substance of the agreement.

(2) At the conclusion of the discussions/negotiations, the contractor will be asked to confirm the agreements reached, in writing, in the form of formal amendments to its proposal.

3. *Final Evaluation*

The Committee will rank the offerors in descending order according to the total score assigned to each based upon the final Committee scores. The Committee recommendation and all working papers will then be forwarded to the Commission's Law Bureau and the Bureau of Administrative Services to ensure compliance with the Department of General Services' Contractor Responsibility Program (Management Directive 215.9) (66 Pa.C.S. § 501 et seq).

J. **Selection**

The Commission selects for contract negotiation the offeror whose proposal is determined to be the most advantageous and notifies that contractor in writing. The Commission then notifies the selected and nonselected offerors of the selection for contract negotiation. The Commission may hold a debriefing conference if it is requested by the non-selected offerors.

K. **Negotiations with the Selected Offeror**

Postselection negotiations will be conducted by a negotiating team (consisting of individuals on the Committee or other individuals with technical, contracting, fiscal and legal expertise). The purpose of the negotiations is to ensure a clear understanding of the work statement; to reach an agreement on the inclusion of the contract provisions; to reach an agreement on the type of contract; and to determine a fair and reasonable price or reasonable cost estimate.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 04-586. Filed for public inspection April 2, 2004, 9:00 a.m.]

Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265 with a copy served on the applicant, on or before April 26, 2004. Documents filed in support of the applications are avail-

able for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

Applications of the following for approval to *begin operating as common carriers for transportation of persons as described under each application.*

A-00120555. Nasser Limousine, LLC (1015 Electric Street, Scranton, Lackawanna County, PA 18509), a limited liability company of the Commonwealth—persons, in limousine service, between points in the County of Lackawanna, and from points in said county, to points in Pennsylvania, and return. *Attorney:* W. Boyd Hughes, 1421 E. Drinker Street, Dunmore, PA 18512.

A-00120552. Tamara Wheeler t/d/b/a Wheeler Transportation (1401 E. Bristol Street, Apt. A-210, City and County of Philadelphia, PA 19124)—persons, in paratransit service, from points in the City and County of Philadelphia, to all State and Federal correctional institutions in Pennsylvania, and return.

A-00120570. On Site Medical, LLC (P. O. Box 1133, Brookhaven, Delaware County, PA 19015), a Pennsylvania limited liability company—persons in paratransit service, between points in Delaware County, and from points in said county, to points in Pennsylvania, and return.

Application of the following for approval of the *beginning of the exercise of the right and privilege of operating motor vehicles as common carriers for the transportation of persons by transfer of rights as described under the application.*

A-00120554. A & D Limousine Service, Inc. (3237 Bristol Road, Bensalem, Bucks County, PA 19020), a corporation of the Commonwealth—persons in limousine service, between points in Pennsylvania; which is to be a transfer of all the rights authorized under the certificate issued at A-00112576, F. 1 to Gail A. Segal Enterprises, Inc., subject to the same limitations and conditions. *Attorney:* Brett B. Weinstein, 707 W. Dekalb Street, King of Prussia, PA 19406.

Application of the following for approval of the *additional right and privilege of operating motor vehicles as common carriers for transportation of persons as described under the application.*

A-00116384. F.2. Richard Wayne Stancombe, Jr. t/d/b/a A Rix Limousine Service (5335 Route 259, Indiana, Indiana County, PA 15701), additional right—persons in group and party service, in vehicles with a seating capacity of 11 to 15 passengers, including the driver, between points in the Counties of Armstrong, Blair, Cambria and Indiana, and from points in said counties, to points in Pennsylvania, and return.

Application of the following for *amendment to the certificate of public convenience approval of the right and privilege to ~~discontinue/abandon~~ operating as common carriers by motor vehicle and for cancellation of the certificate of public convenience as described under the application.*

A-00118925, F.1, Am-A. Johnnie R. Colbert t/d/b/a Daystar Van Services (3936 Bennington Street, Philadelphia, PA 19124)—discontinuance of service—persons in paratransit service, between points in the City and County of Philadelphia, and Delaware County, and from points in said city and county, to points in Pennsylvania, and return.

Complaint

Pennsylvania Public Utility Commission Bureau of Transportation and Safety v. CTM Transport, Inc.; Doc. No. A-00106339C; A-00106339

COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That CTM Transport, Inc., respondent, maintains its principal place of business at 1149 Skippack Pike, Blue Bell, PA 19422.

2. That respondent was issued a certificate of public convenience by this Commission on June 11, 1986, at Application Docket No. A-00106339.

3. That respondent abandoned or discontinued service without having first submitted a letter to this Commission containing a statement that the service is no longer being rendered. Respondent has not reported intrastate revenue for the years 2001, 2002 and 2003.

4. That respondent, by failing to submit a letter to this Commission containing a statement that the service is no longer being rendered, violated 52 Pa. Code § 3.381(a)(5) and, by failing to maintain adequate, efficient and safe service and facilities, violated 66 Pa.C.S. § 1501.

WHEREFORE, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission revoke respondent's Certificate of Public Convenience at A-00106339.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement
Motor Carrier Services & Enforcement Division
Bureau of Transportation and Safety
P. O. Box 3265
Harrisburg, PA 17105-3265

VERIFICATION

I, Wendy J. Keezel, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____

Wendy J. Keezel,
Chief of Enforcement

NOTICE

A. You must file an answer within twenty days of the date of service of this Complaint. The date of service is the mailing date, as indicated at the top of the Secretarial Cover Letter for this Complaint and Notice, 52 Pa. Code § 1.56(a). An answer is a written explanation of circumstances wished to be considered in determining the outcome. The answer shall raise all factual and legal arguments that you wish to claim in your defense and

must include the reference number of this Complaint. Your answer must be verified and the original and three copies sent to:

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

B. If you fail to answer this Complaint within twenty days, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty, which will include the revocation of your Certificate of Public Convenience.

C. If you file an answer which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty, which may include the revocation of your Certificate of Public Convenience.

D. If you file an answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision.

E. Alternative formats of this material are available, for persons with disabilities, by contacting the Compliance Office at 717-787-1168.

Complaint

Pennsylvania Public Utility Commission Bureau of Transportation and Safety v. Pro-Del, Inc.; Doc. No. A-00112688C; A-00112688

COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That Pro-Del, Inc., respondent, maintains its principal place of business at P. O. Box 152, Bridgeville, PA 15017-0152.

2. That respondent was issued a certificate of public convenience by this Commission on June 19, 1996, at Application Docket No. A-00112688.

3. That respondent abandoned or discontinued service without having first submitted a letter to this Commission containing a statement that the service is no longer being rendered. Respondent has not reported intrastate revenue for the years 2001, 2002 and 2003.

4. That respondent, by failing to submit a letter to this Commission containing a statement that the service is no longer being rendered, violated 52 Pa. Code § 3.381(a)(5) and, by failing to maintain adequate, efficient and safe service and facilities, violated 66 Pa.C.S. § 1501.

WHEREFORE, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission revoke respondent's Certificate of Public Convenience at A-00112688.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement
Motor Carrier Services & Enforcement Division

Bureau of Transportation and Safety
P. O. Box 3265
Harrisburg, PA 17105-3265

VERIFICATION

I, Wendy J. Keezel, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____

Wendy J. Keezel,
Chief of Enforcement

NOTICE

A. You must file an answer within twenty days of the date of service of this Complaint. The date of service is the mailing date, as indicated at the top of the Secretarial Cover Letter for this Complaint and Notice, 52 Pa. Code § 1.56(a). An answer is a written explanation of circumstances wished to be considered in determining the outcome. The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this Complaint. Your answer must be verified and the original and three copies sent to:

James J. McNulty, Secretary
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C. If you file an answer which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty, which may include the revocation of your Certificate of Public Convenience.

D. If you file an answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision.

E. Alternative formats of this material are available, for persons with disabilities, by contacting the Compliance Office at 717-787-1168.

Complaint

Pennsylvania Public Utility Commission Bureau of Transportation and Safety v. Rapid Auto Recovery, Inc.; Doc. No. A-00116263C; A-00116263

COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That Rapid Auto Recovery, Inc., respondent, maintains its principal place of business at 1430 North West End Boulevard, Quakertown, PA 18954.

2. That respondent was issued a certificate of public convenience by this Commission on December 21, 1999, at Application Docket No. A-00116263.

3. That respondent abandoned or discontinued service without having first submitted a letter to this Commission containing a statement that the service is no longer being rendered. Respondent has not reported intrastate revenue for the years 2001, 2002 and 2003.

4. That respondent, by failing to submit a letter to this Commission containing a statement that the service is no longer being rendered, violated 52 Pa. Code § 3.381(a)(5) and, by failing to maintain adequate, efficient and safe service and facilities, violated 66 Pa.C.S. § 1501.

WHEREFORE, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission revoke respondent's Certificate of Public Convenience at A-00116263.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement
Motor Carrier Services & Enforcement Division
Bureau of Transportation and Safety
P. O. Box 3265
Harrisburg, PA 17105-3265

VERIFICATION

I, Wendy J. Keezel, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____

Wendy J. Keezel,
Chief of Enforcement

NOTICE

A. You must file an answer within twenty days of the date of service of this Complaint. The date of service is the mailing date, as indicated at the top of the Secretarial Cover Letter for this Complaint and Notice, 52 Pa. Code § 1.56(a). An answer is a written explanation of circumstances wished to be considered in determining the outcome. The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this Complaint. Your answer must be verified and the original and three copies sent to:

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

B. If you fail to answer this Complaint within twenty days, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty, which will include the revocation of your Certificate of Public Convenience.

C. If you file an answer which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty, which may include the revocation of your Certificate of Public Convenience.

D. If you file an answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision.

E. Alternative formats of this material are available, for persons with disabilities, by contacting the Compliance Office at 717-787-1168.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 04-587. Filed for public inspection April 2, 2004, 9:00 a.m.]

PHILADELPHIA REGIONAL PORT AUTHORITY

Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept sealed bids for Project # 04-040.1, Roof Replacement, Pier 84 South, until 2 p.m. on Thursday, April 22, 2004. The bid documents can be obtained from the Director of Procurement, PRPA, 3460 N. Delaware Ave., 2nd Floor, Philadelphia, PA 19134, (215) 426-2600 and will be available April 6, 2004. Additional information and project listings can be found at www.philaport.com. The cost of the bid document is \$35 (includes 7% Pennsylvania sales tax). The cost is nonrefundable. PRPA is an equal opportunity employer. Contractors must comply with all applicable equal opportunity laws and regulations.

A mandatory prebid job site meeting will be held on April 15, 2004, at 10 a.m. at Columbus Blvd. and Porter St., Philadelphia, PA 19148.

JAMES T. MCDERMOTT, Jr.,
Executive Director

[Pa.B. Doc. No. 04-588. Filed for public inspection April 2, 2004, 9:00 a.m.]

STATE CONTRACTS INFORMATION

DEPARTMENT OF GENERAL SERVICES

Act 266 of 1982 provides for the payment of interest penalties on certain invoices of "qualified small business concerns". The penalties apply to invoices for goods or services when payments are not made by the required payment date or within a 15 day grace period thereafter.

Act 1984-196 redefined a "qualified small business concern" as any independently owned and operated, for-profit business concern employing 100 or fewer employees. See 4 Pa. Code § 2.32. The business must include the following statement on every invoice submitted to the Commonwealth: "(name of business) is a qualified small business concern as defined in 4 Pa. Code 2.32."

A business is eligible for payments when the required payment is the latest of:

The payment date specified in the contract.

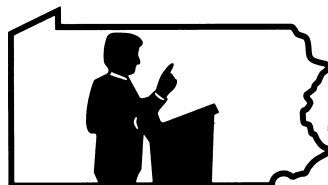
30 days after the later of the receipt of a proper invoice or receipt of goods or services.

The net payment date stated on the business' invoice.

A 15-day grace period after the required payment date is provided to the Commonwealth by the Act.

For more information: contact: Small Business Resource Center
PA Department of Community and Economic Development
374 Forum Building
Harrisburg, PA 17120
800-280-3801 or (717) 783-5700

Reader's Guide



Legal Services & Consultation

① Service Code Identification Number

② Commodity/Supply or Contract Identification No.

B-54137. Consultant to provide three 2-day training sessions, covering the principles, concepts, and techniques of performance appraisal and standard setting with emphasis on performance and accountability, with a knowledge of State Government constraints.

Department: General Services

Location: Harrisburg, Pa.

Duration: 12/1/93-12/30/93

Contact: Procurement Division
787-0000

③ Contract Information

④ Department

⑤ Location

⑥ Duration

⑦

(For Commodities: Contact:)
Vendor Services Section
717-787-2199 or 717-787-4705

REQUIRED DATA DESCRIPTIONS

- ① Service Code Identification Number: There are currently 39 state service and contractual codes. See description of legend.
- ② Commodity/Supply or Contract Identification No.: When given, number should be referenced when inquiring of contract of Purchase Requisition. If more than one number is given, each number represents an additional contract.
- ③ Contract Information: Additional information for bid preparation may be obtained through the departmental contracting official.
- ④ Department: State Department or Agency initiating request for advertisement.
- ⑤ Location: Area where contract performance will be executed.
- ⑥ Duration: Time estimate for performance and/or execution of contract.
- ⑦ Contact: (For services) State Department or Agency where vendor inquiries are to be made.

(For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

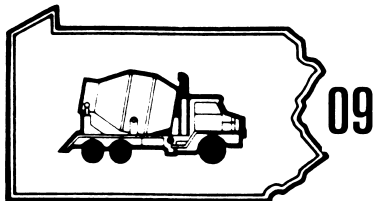
PA TREASURY BUSINESS OUTLET—PLUG INTO IT!

The Treasury Department's Bureau of Contracts and Public Records can help you do business with state government agencies. Our efforts focus on guiding the business community through the maze of state government offices. The bureau is, by law, the central repository for all state contracts over \$5,000. Services are free except the cost of photocopying contracts or dubbing a computer diskette with a list of current contracts on the database. A free brochure explains how to take advantage of available services.

Contact: **Bureau of Contracts and Public Records**
 Pennsylvania State Treasury
 Room 201 Finance Building
 Harrisburg, PA 17120
 717-787-4586
 1-800-252-4700
 BizOutlet@patreasury.org

BARBARA HAFFER,
State Treasurer

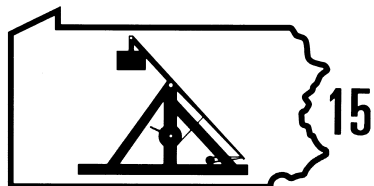
SERVICES



Construction & Construction Maintenance

MI-867 Rebid Tin Shop/electrical substation roof replacement, Millersville University of PA of the State System of Higher Education invites General Construction Contractors to request bid documents for this project. Brief Scope of Work: removal of existing roof; provide new modified bitumen roof, including new insulation, high density fiberboard insulation, base flashings, roof gravel, cant strips, metal gravel stops, counter flashings, fascias, roof edges, pitch pockets, sealants, treated wood nailers; replace roof walkways with precast pads and pedestals and replace door threshold. Bid packet requests will be accepted on-line at: http://muweb.millersville.edu/~purchase/current_bid_opportunities.html. There is no charge for prime contractors submitting a bid. Bids are due by: 04/13/2004, 10:00 a.m., Construction Contracting, Room 202B, Dilworth Hall. A public bid opening will be held in Room 203, Dilworth Hall. Non-Discrimination and Equal Opportunity are the policies of the Commonwealth of PA and the State System of Higher Education.

Department: State System of Higher Education
Location: Millersville University, Millersville Borough
Duration: 60 calendar days from the date of the Notice to Proceed
Contact: Jill M. Coleman, (717) 872-3730



Environmental Maintenance Service

OSM 31(6026)101.1 Abandoned Mine Reclamation Project, Luciana Bottoms West. The principal items of work and approximate quantities include 975 linear feet of rock underdrains, 8,940 square yards of permanent swales/lining, 9,000 tons of alkaline addition (limestone screenings, and/or reclaimer), 429,000 cubic yards of grading, 77.2 acres of seeding and 68,725 trees for planting. This project also includes a mine blowout restoration; mine entry and channel restoration and existing channel restoration that includes excavation and disposal, 5,145 tons of R-7 limestone riprap and 590 tons of R-4 limestone riprap. This project issues on April 2, 2004 and bids will be opened on April 27, 2004 at 2:00 p.m. Payment in the amount of \$10.00 must be received before bid documents will be sent. Federal funds are available for this program from the 2002 Pennsylvania AML Grant.

Department: Environmental Protection
Location: Todd Township, Huntingdon County, PA
Duration: 540 calendar days after the official starting date.
Contact: Construction Contracts Section, (717) 783-7994



Janitorial Services

FM 8715 Furnish all labor, equipment and materials to perform janitorial services three (3) days per week at the PA State Police, Troop K, Skippack Station. Detailed Work Schedule and Bid must be obtained from the Facility Management Division, 717-705-5951.

Department: State Police
Location: Troop K, Skippack Station, 2047 C, Bridge Road, Schwenksville, PA 19473
Duration: 07/01/04 to 06/30/07
Contact: Sandy Wolfe, (717) 705-5951

FM 8720 Furnish all labor, equipment and materials to perform janitorial services three (3) days per week at the PA State Police, Troop N, Hazleton Headquarters. Detailed Work Schedule and Bid must be obtained from the Facility Management Division, 717-705-5951.

Department: State Police
Location: Troop N, Hazleton Headquarters, 250 Dessen Drive, West Hazleton, PA 18202
Duration: 07/01/04 to 06/30/07
Contact: Sandy Wolfe, (717) 705-5951

FM 8722 Furnish all labor, equipment and materials to perform janitorial services three (3) days per week at the PA State Police, Troop P, Shickshinny Station. Detailed Work Schedule and Bid must be obtained from the Facility Management Division, 717-705-5951.

Department: State Police
Location: Troop P, Shickshinny Station, 872 Salem Boulevard, Berwick, PA 18603
Duration: 07/01/04 to 06/30/07
Contact: Sandy Wolfe, (717) 705-5951

FM 8714 Furnish all labor, equipment and materials to perform janitorial services three (3) days per week at the PA State Police, Troop K, Media Station. Detailed Work Schedule and Bid must be obtained from the Facility Management Division, 717-705-5951.

Department: State Police
Location: Troop K, Media Station, 1342 West Baltimore Pike, Media, PA 19063
Duration: 07/01/04 to 06/30/07
Contact: Sandy Wolfe, (717) 705-5951

FM 8723 Furnish all labor, equipment and materials to perform janitorial services three (3) days per week at the PA State Police, Troop P, Towanda Station. Detailed Work Schedule and Bid must be obtained from the Facility Management Division, 717-705-5951.

Department: State Police
Location: Troop P, Towanda Station, R. D. #1, Towanda, PA 18848
Duration: 07/01/04 to 06/30/07
Contact: Sandy Wolfe, (717) 705-5951

FM 8725 Furnish all labor, equipment and materials to perform janitorial services two (2) days per week at the PA State Police, Troop M. Detailed Work Schedule and Bid must be obtained from the Facility Management Division, 717-705-5951.

Department: State Police
Location: Troop M, 1600 Hanover Avenue, Ritter Building, Allentown State Hospital, Allentown, PA 18109
Duration: 07/01/04 to 06/30/07
Contact: Sandy Wolfe, (717) 705-5951

FM 8739 Furnish all labor, equipment and materials to perform janitorial service three (3) days per week at the PA State Police, Northwest Training Center. Detailed Work Schedule and Bid must be obtained from the Facility Management Division, 717-705-5951.

Department: State Police
Location: Northwest Training Center, 195 Valley View Drive, R. D. #3, Box 785-D, Meadville, PA 16335
Duration: 07/01/04 to 06/30/07
Contact: Sandy Wolfe, (717) 705-5951

FM 8736 Furnish all labor, equipment and materials to perform janitorial service three (3) days per week at the PA State Police, Punxsutawney District Enforcement Office. Detailed Work Schedule and Bid must be obtained from the Facility Management Division, 717-705-5951.

Department: State Police
Location: Punxsutawney District Enforcement Office, 305 Sutton Street, Punxsutawney, PA 15767
Duration: 07/01/04 to 06/30/07
Contact: Sandy Wolfe, (717) 705-5951

FM 8737 Furnish all labor, equipment and materials to perform janitorial service three (3) days per week at the PA State Police, Williamsport District Enforcement Office. Detailed Work Schedule and Bid must be obtained from the Facility Management Division, 717-705-5951.

Department: State Police
Location: Williamsport District Enforcement Office, 150 Choate Circle, Montoursville, PA 17754
Duration: 07/01/04 to 06/30/07
Contact: Sandy Wolfe, (717) 705-5951

FM 8738 Furnish all labor, equipment and materials to perform janitorial service two (2) days per week at the PA State Police, Southeast Training Center. Detailed Work Schedule and Bid must be obtained from the Facility Management Division, 717-705-5951.

Department: State Police
Location: Southeast Training Center, 2047-B Bridge Road, Schwenksville, PA 19473
Duration: 07/01/04 to 06/30/07
Contact: Sandy Wolfe, (717) 705-5951

CN00008051 Provide janitorial, recycling and trash removal services, and furnish all materials and equipment required to perform services outlined in Bid CN00008051 specifications. A mandatory office visitation/walk-through will be conducted on April 7, 2004, at 10:00 AM at the OAG CLD Lemoyne office location. Please contact OAG Facilities Management at 717-787-7830 to confirm attendance at the April 7th office visitation.

Department: Auditor General
Location: 106 Lowther St., Lemoyne, PA 17043
Duration: Two-year contract beginning 7/1/04-6/30/06 with three 1-year options to extend at a price increase per the North East Consumer Price Index during the extension period.
Contact: Jean M. Kreiser, (717) 787-2369

FM 8734 Furnish all labor, equipment and materials to perform janitorial service three (3) days per week at the PA State Police, Harrisburg District Enforcement Office. Detailed Work Schedule and Bid must be obtained from the Facility Management Division, 717-705-5951.

Department: State Police
Location: Harrisburg District Enforcement Office, 3655 Vartan Way, Harrisburg, PA 17110
Duration: 07/01/04 to 06/30/07
Contact: Sandy Wolfe, (717) 705-5951

FM 8735 Furnish all labor, equipment and materials to perform janitorial service three (3) days per week at the PA State Police, Philadelphia District Enforcement Office. Detailed Work Schedule and Bid must be obtained from the Facility Management Division, 717-705-5951.

Department: State Police
Location: Philadelphia District Enforcement Office, 6901 Woodland Avenue, Philadelphia, PA 19142
Duration: 07/01/04 to 06/30/07
Contact: Sandy Wolfe, (717) 705-5951

FM 8740 Furnish all labor, equipment and materials to perform janitorial service two (2) days per week at the PA State Police, MPOETC. Detailed Work Schedule and Bid must be obtained from the Facility Management Division, 717-705-5951.

Department: State Police
Location: MPOETC, 8002 Bretz Drive, Harrisburg, PA 17112
Duration: 07/01/04 to 06/30/07
Contact: Sandy Wolfe, (717) 705-5951

FM 8728 Furnish all labor, equipment and materials to perform janitorial service two (2) days per week at the PA State Police, Hazleton Aviation. Detailed Work Schedule and Bid must be obtained from the Facility Management Division, 717-705-5951

Department: State Police
Location: Hazleton Aviation Patrol Unit, Hazleton Municipal Airport, Hazleton, PA 18201
Duration: 07/01/04 to 06/30/07
Contact: Sandy Wolfe, (717) 705-5951

FM 8717 Furnish all labor, equipment and materials to perform janitorial services three (3) days per week at the PA State Police, Troop L, Hamburg Station. Detailed Work Schedule and Bid must be obtained from the Facility Management Division, 717-705-5951.

Department: State Police
Location: Troop L, Hamburg Station, 90 Industrial Drive, Hamburg, PA 19526
Duration: 07/01/04 to 06/30/07
Contact: Sandy Wolfe, (717) 705-5951

FM 8718 Furnish all labor, equipment and materials to perform janitorial services three (3) days per week at the PA State Police, Troop L, Jonestown Station. Detailed Work Schedule and Bid must be obtained from the Facility Management Division, 717-705-5951.

Department: State Police
Location: Troop L, Jonestown Station, 2632 SR 72, Jonestown, PA 17038
Duration: 07/01/04 to 06/30/07
Contact: Sandy Wolfe, (717) 705-5951

FM 8721 Furnish all labor, equipment and materials to perform janitorial services three (3) days per week at the PA State Police, Troop N, Bloomsburg Station. Detailed Work Schedule and Bid must be obtained from the Facility Management Division, 717-705-5951.

Department: State Police
Location: Troop N, Bloomsburg Station, 6850 Hilday Church Road, Bloomsburg, PA 17815
Duration: 07/01/04 to 06/30/07
Contact: Sandy Wolfe, (717) 705-5951

FM 8733 Furnish all labor, equipment and materials to perform janitorial service three (3) days per week at the PA State Police, Altoona District Enforcement Office. Detailed Work Schedule and Bid must be obtained from the Facility Management Division, 717-705-5951.

Department: State Police
Location: Altoona District Enforcement Office, 930 Route 22 East, Duncansville, PA 16635
Duration: 07/01/04 to 06/30/07
Contact: Sandy Wolfe, (717) 705-5951

FM 8719 Furnish all labor, equipment and materials to perform janitorial services three (3) days per week at the PA State Police, Troop L, Schuylkill Haven Station. Detailed Work Schedule and Bid must be obtained from the Facility Management Division, 717-705-5951.

Department: State Police
Location: Troop L, Schuylkill Haven Station, 23 Meadowbrook Drive, Schuylkill Haven, PA 17972
Duration: 07/01/04 to 06/30/07
Contact: Sandy Wolfe, (717) 705-5951

FM 8726 Furnish all labor, equipment and materials to perform janitorial services three (3) days per week at the PA State Police, Harrisburg CDC. Detailed Work Schedule and Bid must be obtained from the Facility Management Division, 717-705-5951.

Department: State Police
Location: Harrisburg CDC, 8001 Bretz Drive, Harrisburg, PA 17112
Duration: 07/01/04 to 06/30/07
Contact: Sandy Wolfe, (717) 705-5951

FM 8716 Furnish all labor, equipment and materials to perform janitorial services three (3) days per week at the PA State Police, Troop L, Frackville Station. Detailed Work Schedule and Bid must be obtained from the Facility Management Division, 717-705-5951.

Department: State Police
Location: Troop L, Frackville Station, 4 Eleanor Drive, Frackville, PA 17931
Duration: 07/01/04 to 06/30/07
Contact: Sandy Wolfe, (717) 705-5951

FM 8729 Furnish all labor, equipment and materials to perform janitorial service two (2) days per week at the PA State Police, Montoursville Helicopter Storage. Detailed Work Schedule and Bid must be obtained from the Facility Management Division, 717-705-5951.

Department: State Police
Location: Montoursville Helicopter Storage, Lycoming County Airport, Montoursville, PA 17754
Duration: 07/01/04 to 06/30/07
Contact: Sandy Wolfe, (717) 705-5951

FM 8730 Furnish all labor, equipment and materials to perform janitorial service three (3) days per week at the PA State Police, Bethlehem Crime Lab and DNA Lab. Detailed Work Schedule and Bid must be obtained from the Facility Management Division, 717-705-5951.

Department: State Police
Location: Bethlehem Crime Lab and DNA Lab, 2932 Airport Road, Bethlehem, PA 18107
Duration: 07/01/04 to 06/30/07
Contact: Sandy Wolfe, (717) 705-5951

FM 8731 Furnish all labor, equipment and materials to perform janitorial service two (2) days per week at the PA State Police, Lima Crime Lab. Detailed Work Schedule and Bid must be obtained from the Facility Management Division, 717-705-5951.

Department: State Police
Location: Lima Crime Lab, 350 North Middletown Road, Media, PA 19063
Duration: 07/01/04 to 06/30/07
Contact: Sandy Wolfe, (717) 705-5951

CN00008031 Provide janitorial, recycling and trash removal services, and furnish all materials and equipment required to perform services outlined in Bid CN00008031 specifications. A mandatory office visitation/walk-through will be conducted on April 7, 2004 at 10:00 AM at the OAG Allentown office location. Contact OAG Facilities Management at 717-787-7830 to confirm attendance at the janitorial office visitation/walk through.

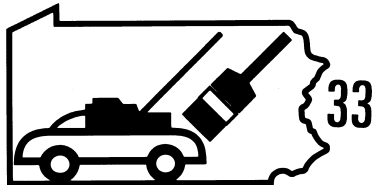
Department: Attorney General
Location: 2305 28th Street, S.W., Allentown, PA 18103
Duration: 2-year contract beginning 7/1/04 - 6/30/06 with three 1-year options to extend with a price increase for the extension per the North East Consumer Price Index.
Contact: Jean M. Kreiser, (717) 783-2369

FM 8732 Furnish all labor, equipment and materials to perform janitorial service three (3) days per week at the PA State Police, Wyoming Crime Lab. Detailed Work Schedule and Bid must be obtained from the Facility Management Division, 717-705-5951.

Department: State Police
Location: Wyoming Crime Lab, 479 Wyoming Avenue, Wyoming, PA 18644
Duration: 07/01/04 to 06/30/07
Contact: Sandy Wolfe, (717) 705-5951

CN00008036 Provide janitorial, recycling and trash removal services, and furnish all materials and equipment required to perform services outlined in Bid CN00008036 specifications. A mandatory office visitation/walk-through will be conducted on April 5, 2004 at 10:00 AM at the OAG Wilkes-Barre office. Contact OAG Facilities Management at 717-787-7830 to confirm attendance at the April 5th office visitation.

Department: Attorney General
Location: 680 Baltimore Drive, Wilkes-Barre, PA 18702
Duration: Two-year contract beginning July 1, 2004 through June 30, 2006 with three one-year per the North East Consumer Price Index options to extend with a pricing increase during the extensions
Contact: Jean M. Kreiser, (717) 783-2369



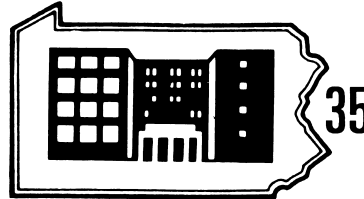
Property Maintenance

10030961 Prepare and paint all interior walls and ceilings and replace cove base in student residence halls and apartments on the campus of Bloomsburg University. Work is split into three projects consisting of: Project A - 4 apartments, 23,900 total square feet; Project B - 37 apartments, 129,000 total square feet; and Project C - 256 rooms, 170,000 total square feet. A pre-bid meeting and job tour for all three projects will be held on April 14, 2004 at 9:00 AM. Bids will be due on April 26, 2004 with work completion dates of June 30, 2004 for Project A and August 2, 2004 for Projects B and C. To obtain a copy of the bid request, send a fax to Robert Hakim, Director of Purchasing, by April 2, 2004 (fax 570-389-2017, phone 570-389-4311). Fax must state the project(s) for which you wish to receive a bid. Include the name, address, phone number, fax number and email address of your firm.

Department: State System of Higher Education
Location: Bloomsburg University, 400 E. Second Street, Bloomsburg, PA 17815
Duration: 6/1/04 - 8/2/04
Contact: Robert Hakim, (570) 389-4311

CL-600 Roofing and Facade Restoration, Ballentine Clarion University is soliciting bids for re-roofing work and facade restoration of a dormitory, Ballentine Hall located on the Clarion campus. The project includes demolition of roofing and installation of new insulation; an EPDM adhered roof, new flashings and related components. Work also includes facade restoration for wall areas on all four sides of the facility which will require repointing, brick removal and replacement in selected areas (including brick removal and replacement as required to install new through wall flashing), caulking and water repellent. Pre-Bid Meeting: 1:00 P.M., March 26, 2004 in McEntire Maintenance Building, Wilson Avenue, Clarion, PA. Bids Due: 2:30 P.M., April 8, 2004. Plans Cost: \$30.00, non-refundable, for one complete set of plans and specifications, payable to Clarion University. Additional charge for multiple copies. Plans and specifications may be reviewed without charge at the university. Requests may be mailed to the attention of Judy McAninch, Contract Specialist, 218 Carrier Hall, Clarion University, Clarion, PA 16214 or e-mail at jmcaninch@clarion.edu.

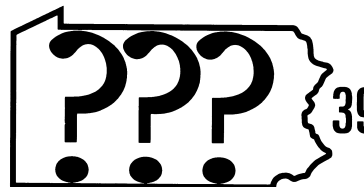
Department: State System of Higher Education
Location: Clarion University, Clarion County, Clarion, PA
Duration: 105 Days from Notice to Proceed
Contact: Judy McAninch, Contract Specialist, (814) 393-2240



Real Estate Services

93660 Lease office space to the Commonwealth of PA. Proposals are invited to provide the PA Probation and Parole Board with 7,964 useable square feet of office space within the following boundaries: NORTH: I-81; SOUTH: I-83; EAST: I-83; WEST: Susquehanna River, Harrisburg, Dauphin County, PA, with a minimum parking requirement for 8 vehicles. Downtown locations will be considered. For more information on SFP #93660 which is due on May 17, 2004 visit www.dgs.state.pa.us and click on "Real Estate" to download an SFP package or call (717) 787-4396.

Department: Probation and Parole Board
Location: 505 North Office Building, Harrisburg, PA 17125
Contact: Mr. John Hocker, (717) 787-4396



Miscellaneous

SU-03-16 Shippensburg University is seeking vendors interested in submitting bids for copier maintenance and repair services for Ricoh copiers located at various locations on campus for the period July 1, 2004 to June 30, 2005 with two (2) additional one (1) year renewal periods. Interested bidders must be authorized service providers for Ricoh copiers in Cumberland County, PA. Interested bidders may fax their request to Karen Smith, Purchasing and Contracting Office at (717) 477-1350 or email request to kmsmit@wharf.ship.edu. All responsible bidders are invited to participate including MBE/WBE firms.

Department: State System of Higher Education
Location: Shippensburg University, 1871 Old Main Drive, Shippensburg, PA 17257
Duration: July 1, 2004 to June 30, 2005
Contact: Karen M. Smith, (717) 477-1386

RFA-Grant The Education Mentoring Initiative provides funding for non-profit, community-based organizations working in partnership with schools to link responsible, caring adults with at-risk children and youth. The mentors provide role models to help ensure students stay in school and become positive role models themselves to others in their community. Guidelines and the Request for Application (RFA) for this initiative are available through the Department of Education's website at www.pde.state.pa.us/mentoring and also by calling the Bureau of Community and Student Services at (717) 787-4605.

Department: Education
Location: Bureau of Community and Student Services
Duration: 2004-2005
Contact: Shirley Gould, (717) 787-4605

IN-871 University Housing Master Plan Indiana University of the Pennsylvania State System of Higher Education will select a firm for the purpose of providing professional facility planning services for a University Housing Master Plan. Interested professionals should obtain a Request for Proposal (RFP) from Robert L. Marx, Director of Engineering and Construction at Indiana University of Pennsylvania by phone (724) 357-2289, FAX (724) 357-6480, or see Projects List on our website www.iup.edu/engconstruction. Should a firm obtain this RFP directly from the Engineering and Construction Group website, they must send an e-mail to engconstruction@iup.edu indicating that they have done so. RFPs are due at 4:00 p.m. on Thursday, April 8, 2004. The System encourages responses from small firms, minority firms, women owned firms, and firms which have not previously worked for the System, and will consider joint ventures which will enable these firms to participate in System professional services contracts. Non-Discrimination and Equal Opportunity are the policies of the Commonwealth and the Pennsylvania State System of Higher Education.

Department: State System of Higher Education

Location: Indiana University of Pennsylvania, Main Campus, Indiana, PA 15705

Duration: Request for Proposals are due April 8, 2004 at 4:00 P.M. EST

Contact: Robert L. Marx, (724) 357-2289

ME 30879019 The scope of work is to furnish all materials, equipment, labor and supervision necessary to construct and permanently stabilize surface water control embankments, and surface water conveyance channels around the boiler house area at Selinsgrove Center located in Penn Township, Snyder County, PA. All perspective bidders shall attend a scheduled pre-bid meeting as announced in the cover letter of the bid package. Requests for bid packages can be faxed to 570-372-5675 or emailed to pkreamer@state.pa.us.

Department: Public Welfare

Location: Selinsgrove Center, 1000 US Highway 522, Selinsgrove, PA 17870

Duration: 120 Calendar days from the effective date of contract.

Contact: Patti Kreamer, (570) 372-5670

[Pa.B. Doc. No. 04-589. Filed for public inspection April 2, 2004, 9:00 a.m.]

DESCRIPTION OF LEGEND

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| <p>1 Advertising, Public Relations, Promotional Materials</p> <p>2 Agricultural Services, Livestock, Equipment, Supplies & Repairs: Farming Equipment Rental & Repair, Crop Harvesting & Dusting, Animal Feed, etc.</p> <p>3 Auctioneer Services</p> <p>4 Audio/Video, Telecommunications Services, Equipment Rental & Repair</p> <p>5 Barber/Cosmetology Services & Equipment</p> <p>6 Cartography Services</p> <p>7 Child Care</p> <p>8 Computer Related Services & Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p>9 Construction & Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p>10 Court Reporting & Stenography Services</p> <p>11 Demolition—Structural Only</p> <p>12 Drafting & Design Services</p> <p>13 Elevator Maintenance</p> <p>14 Engineering Services & Consultation: Geologic, Civil, Mechanical, Electrical, Solar & Surveying</p> <p>15 Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core & Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p>16 Extermination Services</p> <p>17 Financial & Insurance Consulting & Services</p> <p>18 Firefighting Services</p> <p>19 Food</p> <p>20 Fuel Related Services, Equipment & Maintenance to Include Weighing Station Equipment, Underground & Above Storage Tanks</p> <p>21 Hazardous Material Services: Abatement, Disposal, Removal, Transportation & Consultation</p> | <p>22 Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental & Repair</p> <p>23 Janitorial Services & Supply Rental: Interior</p> <p>24 Laboratory Services, Maintenance & Consulting</p> <p>25 Laundry/Dry Cleaning & Linen/Uniform Rental</p> <p>26 Legal Services & Consultation</p> <p>27 Lodging/Meeting Facilities</p> <p>28 Mailing Services</p> <p>29 Medical Services, Equipment Rental and Repairs & Consultation</p> <p>30 Moving Services</p> <p>31 Personnel, Temporary</p> <p>32 Photography Services (includes aerial)</p> <p>33 Property Maintenance & Renovation—Interior & Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning & Planting, etc.)</p> <p>34 Railroad/Airline Related Services, Equipment & Repair</p> <p>35 Real Estate Services—Appraisals & Rentals</p> <p>36 Sanitation—Non-Hazardous Removal, Disposal & Transportation (Includes Chemical Toilets)</p> <p>37 Security Services & Equipment—Armed Guards, Investigative Services & Security Systems</p> <p>38 Vehicle, Heavy Equipment & Powered Machinery Services, Maintenance, Rental, Repair & Renovation (Includes ADA Improvements)</p> <p>39 Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
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DONALD T. CUNNINGHAM, Jr.
Secretary